By Mr. STUCKEY:

H.R. 15386. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from the minimum wage and overtime requirements of that act for certain full-time babysitters; to the Committee on Education and Labor.

By Mr. WHALEN (for himself, Mr. CONTE, and Mr. FRELINGHUYSEN):

H.R. 15387. A bill to provide for increased participation by the United States in the International Development Association; to the Committee on Banking and Currency.

By Mr. YOUNG of Alaska:

H.R. 15388. A bill to amend the Commercial Fisheries Research and Development Act of 1964 to authorize additional funds to restore fisheries affected by resource disasters to the Committee on Merchant Marine and Fisheries.

By Mr. ZWACH:

H.R. 15389. A bill to authorize the Administrator of the National Aeronautics and Space Administration to conduct research and development programs to increase knowledge of tornadoes, hurricanes, large thunderstorms, and other types of short-term weather phenomena, and to develop methods for predicting, detecting, and monitoring such atmospheric behavior; to the Committee on Science and Astronautics.

By Mr. ANDREWS of North Carolina:

H.R. 15390. A bill to amend title 23, United States Code, to insure that no State will be apportioned less than 80 per centum of its tax contribution to the Highway Trust Fund; to the Committee on Public Works.

By Mr. BINGHAM:

H.R. 15391. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, so that such benefits will be payable on the same basis as benefits for wives and widows; to the Committee on Ways and Means.

By Mr. BENITEZ (for himself, Mr. WON PAT, and Mr. DE LUGO):

H.R. 15392. A bill to amend the Social Security Act to eliminate family planning services and supplies from the ceiling presently imposed on the total amount of Federal payments which may be made to Puerto Rico, the Virgin Islands, or Guam in any fiscal year under the medicaid program; to the Committee on Ways and Means.

By Mr. FOUNTAIN:

H.R. 15393. A bill to amend the Mutual Security Act of 1954 to require that information relating to foreign travel by Members of Congress be open to public inspection and published periodically in the CONGRESSIONAL RECORD; to the Committee on Foreign Affairs.

H.R. 15394. A bill to authorize the provision of assistance to foreign countries in exchange for strategic or critical raw materials; to the Committee on Foreign Affairs.

By Mr. GUNTER:

H.R. 15395. A bill requiring studies to be made prior to leasing Outer Continental for oil drilling or exploration, and for other purposes; to the Committee on Interior and Insular Affairs

By Mr. KARTH:

H.R. 15396. A bill to amend the Internal Revenue Code of 1954 to provide that condominium owners' or homeowners' associations will not be taxed on receipt of membership income; to the Committee on Ways and Means.

By Mr. MILLER (for himself, Mr. CONTE, Mr. PASSMAN, Mr. FROEHLICH, Mr. COUGHLIN, Mr. BURKE of Florida, and Mr. STEED):

H.R. 15397. A bill to authorize the provision of assistance to foreign countries in exchange for strategic or critical raw materials; to the Committee on Foreign Affairs.

By Mr. OWENS:

H.R. 15398. A bill to provide assistance for community planning needs required by development of mineral resources for energy production and to amend the procedure specified in the Mineral Leasing Act of 1920 relating to royalties paid on shale oil produced on Federal land, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RANDALL:

H.R. 15399. A bill to establish a Commission on Economic and Natural Resources Planning in the executive branch of the Federal Government; to the Committee on Government Operations.

By Mr. RONCALLO of New York:

H.R. 15400. A bill to amend title XVI of the Social Security Act to provide for emergency replacement payments to recipients of supplemental security income benefits, to authorize cost-of-living increases in such benefits, to insure that all beneficiaries receive such increases, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits in limited circumstances directly to drug addicts and alcoholics (without a third-party payee), to provide for expeditious action on applications for benefits, to amend eligibility requirements for separated spouses, to allow judicial review of eligibility determinations and for other purposes; to the Committee on Ways and Means.

By Mr. ROY:

H.R. 15401. A bill to provide for adequate reserves of certain agricultural commodities, and for other purposes; to the Committee on Agriculture.

By Mr. RUPPE:

H.R. 15402. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROONEY of New York:

H.R. 15404. A bill asking appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1975, and for other purposes.

By Mr. LAGOMARSINO:

H.J. Res. 1059. Joint resolution to establish the Tule Elk National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. SANDMAN:

H.J. Res. 1060. Joint resolution to designate July 1974 as "July Belongs to Blueberries Month"; to the Committee on the Judiciary.

By Mr. DOMINICK V. DANIELS:

H. Con. Res. 538. Concurrent resolution expressing the sense of the Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

By Mr. FOUNTAIN:

H. Con. Res. 539. Concurrent resolution expressing the sense of Congress regarding the annexation of the Baltic nations; to the Committee on Foreign Affairs.

H. Con. Res. 540. Concurrent resolution for negotiations on the Turkish opium ban; to the Committee on Foreign Affairs.

By Mrs. GRASSO:

H. Con. Res. 541. Concurrent resolution expressing the sense of Congress concerning recognition by the European Security Conference of the Soviet Union's occupation of Estonia, Latvia, and Lithuania; to the Committee on Foreign Affairs.

By Mr. SCHERLE:

H. Con. Res. 542. Concurrent resolution expressing the sense of Congress concerning recognition by the European Security Conference of the Soviet Union's occupation of Estonia, Latvia, and Lithuania; to the Committee on Foreign Affairs.

By Mr. FOUNTAIN:

H. Res. 1172. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

H. Res. 1173. Resolution expressing the sense of the House of Representatives with respect to the participation of the United States in an international effort to reduce the risk of famine and to lessen human suffering; to the Committee on Foreign Affairs.

H. Res. 1174. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. YATES (for himself, Mr. ANDERSON of California, Mr. SARASIN, and Mr. STEELMAN):

H. Res. 1175. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. KASTENMEIER introduced a bill (H.R. 15403) for the relief of Marlin Toy Products, Inc., which was referred to the Committee on the Judiciary.

SENATE—*Thursday, June 13, 1974*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Our Father, we do not pray for easy lives, but that we may be strong "to bear the strain of toil and fret of care." We do not pray for tasks equal to our powers, but for powers equal to our tasks. Transfigure every duty, great or small, into service to Thee. May we give love, comradeship, and assistance to all with whom we work. Grant us new power, enduring faith, and abiding joy this day that we may "more perfectly love Thee and magnify Thy holy name."

Through Jesus Christ, our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, June 12, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

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

THE JUDICIARY

The assistant legislative clerk proceeded to read sundry nominations in the judiciary.

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

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

DEPARTMENT OF JUSTICE

The assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

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

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

U.S. PATENT OFFICE

The assistant legislative clerk read the nomination of Paul J. Henon, of Virginia, to be an examiner in chief.

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The assistant legislative clerk read the nomination of Robert R. Elliott, of Virginia, to be General Counsel of the Department of Housing and Urban Development.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

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

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

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

LEGISLATIVE SESSION

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

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

DR. KISSINGER'S PRESS CONFERENCE IN AUSTRIA

Mr. MANSFIELD. Mr. President, on behalf of the Republican leader, the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT), and myself, I ask unanimous consent to have printed in the RECORD the press conference with the American press held by the Honorable Henry A. Kissinger, Secretary of State, at the Kavalier Haus in Salzburg, Austria, on June 11, 1974.

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

PRESS CONFERENCE BY THE HONORABLE HENRY A. KISSINGER, SECRETARY OF STATE

Secretary KISSINGER. Ladies and gentlemen, I have requested this meeting as a result of the series of articles that have appeared growing out of my press conference last Thursday. I am speaking to you extemporaneously on the basis of my best recollection of events.

Last Thursday a number of you commented on the fact that I seemed irritated, angered, flustered, discombobulated. All these words are correct. After five weeks in the Middle East I was not thinking about the various investigations going on in the United States. I did not prepare myself for the press conference by reading the records of investigations that I believed had been completed.

I have testified before the Senate Foreign Relations Committee in public session, in executive session, and then at a closed meeting with Senator Sparkman and Senator Case, where at my request we went over each FBI report on the wiretaps that existed. The meeting with Senators Sparkman and Case was also attended by Attorney General Richardson and Deputy Attorney General Ruckelshaus, who supplied what information they could from their records or their recollection.

Since that press conference there have been many articles and several editorials. I was prevented by the short time interval between the press conference and the President's departure from holding a press conference in the United States before we left.

However, I got in touch with Senator Fulbright, Chairman of the Senate Foreign Relations Committee on Sunday, and I sent him the following letter yesterday morning which I will now read to you.

"DEAR MR. CHAIRMAN: You have no doubt seen the news reports and editorial comments relating to my testimony before the Senate Foreign Relations Committee at the time of my confirmation hearing. They involve fundamental issues concerning the truthfulness and completeness of my testimony; hence they raise issues of public confidence and directly affect the conduct of our foreign policy.

"You will remember that my testimony concerning the national security wiretaps ordered by the President and carried out by the FBI under the authority of the Attorney General was in three parts: public testimony, an extensive executive session, and a session with Senators Sparkman and Case in which we went over relevant FBI files.

"The meeting with Senators Sparkman and Case was conducted in the presence of then Attorney General Richardson and the then Deputy Attorney General Ruckelshaus. I emphasize this because no new material has appeared since my testimony except a brief excerpt from a Presidential tape, a large part of which is described as unintelligible.

"The documents now being leaked were available to me before my testimony. They were given to Senators Sparkman and Case prior to my meeting with them. In a few cases my recollection differed in emphasis from the documents. In those cases I pointed out apparent discrepancies and explained them at the time.

"The innuendoes which now imply that new evidence contradicting my testimony has come to light are without foundation. All the available evidence is to the best of my knowledge contained in the public and closed hearings which preceded my confirmation.

"You are familiar with the details of my testimony, so I shall not repeat them here nor do I have any reason to change the testimony presented to your committee in any particular.

"Nevertheless, at this sensitive period, I feel it important that the committee which first examined the evidence and which has a special concern with the conduct of foreign affairs should have an opportunity to review it once again.

"I should add that if the committee decides on a review, I would not object should it wish to examine relevant security files and reports on wiretaps sent to my office. I, of course, stand ready to appear at any time."

Since sending this letter, there have been many more articles and more are undoubtedly in the process of preparation. In these circumstances, it is not appropriate for me, as Secretary of State, to go with the President to the Middle East without having a full discussion of the facts as I know them, keeping in mind only that I do not have all my records here with me.

I shall now discuss these facts with you. I shall afterwards stay for as long as there are any questions. There will be no ending of the question period as long as there are any questions left to be asked.

First, what is it we are talking about? The impression has been created that I am trying to obscure with misleading testimony. The fact of the matter is that the wiretaps in question were legal, they followed established procedures. When they were established, the then Attorney General and the then Director of the Federal Bureau of Investigation assured me that they were reinstituting procedures that were carried out in previous administrations.

Before public reputations are attacked or destroyed, elementary fairness requires that this particular statement be looked into and that it be made clear whether the national security wiretaps were in fact carried out in previous administrations. The history of these wiretaps derived from a series of leaks that occurred in the spring of 1969. As Assistant to the President for National Security Affairs, I had the duty to call the attention of the President to what seemed to me violations of national security.

These violations cannot be assessed only by analyzing the intrinsic merit of individual documents, but they must be also analyzed in terms of the confidence other governments can have in a government that seems totally incapable of protecting its secrets. After a series of egregious violations, the President ordered, on the advice of the Attorney General and the Director of the Federal Bureau of Investigation, the institution of a system of national security wiretaps.

I repeat, I was informed when I was told about this system, that it was reinstituted, a system that had existed in previous administrations, even though it may have been administered from different offices. I was asked to have my office supply names in three categories: individuals who had adverse information in their security files, individuals who had access to information that had leaked, and individuals whose names appeared as a result of the investigation that submission of the previous two lists might entail.

My office, for which I bear full responsibility, submitted those named in carrying out this program. I would be prepared to let any appropriate investigative body examine

the list to make certain that no name was submitted through my office that did not fit into one of these categories.

In submitting these names, we knew that an investigation was certain and that a wiretap was probable and I so testified in the Executive Session of the Senate Foreign Relations Committee, no matter how sentences are now taken out of context.

I testified both to Senator Case and to Senator Muskie that in submitting the names we knew, of course, that a wiretap was a probable outcome. The basic issue is whether through my office or with my knowledge any names were submitted for any purpose other than the protection of national security and whether the information was used for any purpose other than the protection of national security.

When a wiretap was installed, the FBI would send a report to my office only when, in the judgment of the FBI, the conversation involved violations of national security. It is totally incorrect and outrageous to say that these tapes that were submitted to my office involved a description of extra-marital affairs or pornographic descriptions.

I do not know what the original logs show. The system that was followed in the operation of the national security wiretaps was, first of all, that no verbatim transcript was ever sent to my office. What was sent to my office was a page and a half summary of conversations that seemed to the FBI to involve issues of national security. These memoranda were then screened in my office and if, in the judgment of those who screened the memoranda, they were of sufficient importance, they were shown to me.

One of the leaks that I have read recently speaks of 54 logs that were allegedly sent to my office. The word "logs" of course, is a lie. What was sent to my office was a page and a half summary.

But, if you consider that during that period that eight or 10 people were being subjected to investigation, that the period covered in which my office received these reports was one year, you have to see that this meant that on the average four and one-half reports a month were sent to my office, of which I saw—I cannot be sure what percentage—maybe one or two.

The implication that my office was spending its time reading salacious reports by subordinates is a symptom of the poisonous atmosphere that is now characteristic of our public discussion.

I repeat, if we can find an appropriate forum which will do no damage to the individuals involved, I would not object letting anybody see the reports that were received in my office.

After May, 1970, it was decided that my office was not equipped to deal with internal security matters. And after May, 1970, no reports from the FBI were sent to my office for the remainder of the period that the national security wiretaps remained in force.

During this period, General Haig maintained, at my direction, contact with Director Sullivan of the FBI. The reports from that time on were sent to Mr. Haldeman's office. If a report of sufficient gravity had been sent to Mr. Haldeman's office, Mr. Sullivan might inform General Haig and if in the judgment of General Haig the report was sufficiently serious, I would be informed of the content, but I would not see the report.

To all of this I have testified in executive session before the Senate Foreign Relations Committee and I would have no hesitation, if the Senate Foreign Relations Committee decided to declasify the report. I would only ask that the individuals whose names are mentioned be given an opportunity to have the material deleted that refers to the reasons why particular cases in my recollection arose.

When I testified before the Senate Foreign Relations Committee, I was aware that my recollection of particular events differed in a few cases from the memoranda. I nevertheless submitted the memoranda pointing out, and I quote, "You have to remember, Senator Case, I was one of those who strongly recommended that the report be given to the committee and that when there was a difference between my recollection and this report, I nevertheless decided to stick to my recollection."

There were three cases, all of which have now been leaked, of such differences, each of which I explained in detail to the committee, to the best of my recollection, after which the committee confirmed me by a vote of fifteen to one, and I believe that the one negative vote was unrelated to this particular issue.

Now then, this raises a number of questions. The first is, was the program legal? I have already answered that. The second is, was the program administered ethically and properly? I have seen inuendoes according to which allegedly the criteria which I testified to were violated and according to which the first four people that were submitted, according to these criteria, did not really meet these criteria but were united, according to this report, by having worked for the Johnson Administration. Let me point out that I, too, worked for the Johnson Administration and that I knew President Johnson before I knew President Nixon and that I have never been ashamed of having worked for President Johnson.

Secondly, three of the four people on that original list were appointed to the National Security Council staff by me over the strong objection of all of my associates. Two of them were appointed to the National Security staff by me over the strong objection of the security officers and I personally gave them a clearance.

Can anybody, in all fairness, believe that three months after appointing these individuals to my staff I would initiate a wiretap program designed to prove that they were security risks, or would not a fair interpretation have to assume that criteria were established that were being met?

Stories have been leaked to the effect that I harassed the Director of the FBI with such phrases that, "I will destroy the leakers," and that he was somewhat reluctant about this program. I repeat, the program was instituted on the recommendation of the Attorney General and the Director of the FBI by the President.

The memorandum that was leaked in which I allegedly said, "I will destroy them," is a memorandum that was also available to the Senate Foreign Relations Committee. It was a memorandum written by the Director of the FBI, nine-tenths of which deals with a telephone call that he initiated to me informing me of the security risks that he saw dealing with my material or with the NSC material. At the end of this conversation, devoted entirely to a recitation by the Director of the FBI to various security violations, I said to him, according to his memorandum—I have no recollection of this today—but according to this memorandum I said, "Keep up the investigation and if you find somebody, we will destroy them."

I think the connotation of this remark is entirely different from that which has appeared in the public press.

All of these facts have been put before the Senate Foreign Relations Committee. I know there have been semantic disputes about the words "request," "recommend," "initiate." I spent some time with the Senate Foreign Relations Committee explaining what the significance of the word "request" might be in the context and what the significance of the phrase "initiate" might be.

Of course, in the sense that we submitted the names of individuals who belonged in the categories which we were ordered to produce, we initiated submitting names. The point I am making is my office did not initiate any requests for wiretaps that were not triggered either by a security violation or by fulfilling the criteria of adverse information in the security files and that last criterion was met only once at the beginning of the program.

These are the facts of the national security wire tap program as I remember. I do not apologize for it. It is not a shady affair, as has been alleged. It followed legal procedures. I fully testified to it and I stand ready to testify again before any appropriate committee.

Now let me turn to another matter that is also constantly being invoked: the issue of the plumbers and David Young. I testified before the Senate Foreign Relations Committee and I said in a press conference that I did not know about the existence of the plumbers by that or any other name. I did not know that David Young was working for the plumbers.

I said this under oath and I repeat it today. I hope none of you are ever in a position that you have to prove the negative of a knowledge.

Now, since then, various stories have come to the fore. There is the argument that I was responsible for the creation of the plumbers because of my concern about the theft of the Pentagon papers, a concern which was transmitted to the President. There is the argument that I misled the Senate Foreign Relations Committee because I did not tell the Senate Foreign Relations Committee that I had heard a tape in which David Young interviewed an admiral who had information with respect to his security.

There is the argument that I was on a helicopter ride with Mr. Ehrlichman in which the plumbers were discussed. Let me deal with these issues in order. It is perfectly true that I was profoundly disturbed by the publication of the Pentagon papers. Any Assistant to the President for National Security Affairs who was not concerned when 10,000 classified documents appeared in the public print would not be doing his duty. Nor can my concern be explained away by calling to the intrinsic insignificance of the individual documents or maybe the whole body of documents.

My concern was at that time we were preparing the secret trip to China. I was engaged in secret negotiations with North Vietnam that ultimately led to the end of the American participation in Vietnam. We were also engaged in secret discussions on strategic arms limitation. I was profoundly concerned and so expressed my views to the President that these initiatives might be aborted if other governments had the idea that the United States Government was not in a position to protect its secrets and that anybody could publish any document and then the proof of its intrinsic significance was left to the government.

I recognize that national security has been abused in recent years, but because there have been abuses does not mean that there was not justified concern by honorable people. It did not occur to me in expressing my concern that this might lead to the burglary of a doctor's office. It did occur to me that measures might be taken to protect the government against a recurrence of these leaks.

I was in China when David Young was assigned to Mr. Ehrlichman's office. I returned from China the morning of July 13 to learn that Mr. Ehrlichman had recruited one of my staff members. To this I expressed a strong objection. My impression was as I have testified publicly and as I here repeat, that Mr. Young was assigned to a declassification project that was to last three months and then was publicly announced. I had no reason in the world to deny knowledge of the existence of a group designed to prevent leaks because there was nothing wrong as such with attempting to prevent leaks.

What was wrong was some of the activities that were being conducted by the office. And Mr. Krogh, who headed the office, has publicly stated that I had no knowledge of its activities. So the only thing at issue is whether I deliberately lied about knowing about the existence of an organization, the substance of which by common agreement I had nothing to do with.

Mr. Ehrlichman describes three meetings, on the 13th, 15th and a subsequent date in July. He places me at only one of these meetings, on a helicopter ride from Los Angeles to San Clemente.

My recollection of that day is that it was the day on which the President announced his China initiative and which I had just returned from China. After the China initiative was announced, the President, Mr. Haldeman, Mr. Ehrlichman, I think Mr. Scali and I went to a restaurant in Los Angeles to celebrate the events. We then spent a half hour to 40-minute helicopter ride from Los Angeles to San Clemente.

My only recollection of this helicopter ride is that Mr. Ehrlichman was needling me about not being able to use my staff properly and therefore having asked for the assignment of Mr. Young to his staff. I repeat, I have no recollection that the Plumbers, by that or any other name, were discussed on that helicopter ride, although I leave open the possibility that given the noise of a helicopter ride there may have been some misunderstanding.

But I do not use this as an alibi. I have no recollection of such a conversation and no one has ever placed me at any meeting of the Plumbers or any meeting where the Plumbers were discussed subsequently.

Now, let me turn to the question of whether the fact that I listened to a tape in which Mr. Young interviewed Admiral Welander indicated that I had been less than candid in testifying before the Senate Foreign Relations Committee.

The question which I answered before the Senate Foreign Relations Committee was as follows: "Did you, when he, namely David Young, left your employment and was transferred to Mr. Ehrlichman, have any idea at that time or any subsequent time that he was to be requested to engage in illegal activities, burglary, conspiracy to burglary or whatever they might be?"

This, ladies and gentlemen, is the question I was answering before the Senate Foreign Relations Committee, not the question whether I ever heard anything of David Young.

But I do not want to engage here in legal quibble. What did I know about the interview of David Young? In the fall of 1971 there were a series of massive leaks of National Security Council documents which appeared in the columns of Mr. Anderson. Some of them included verbatim summaries of meetings of subordinate bodies of the National Security Council.

I was told at that time by Mr. Ehrlichman that he was conducting the investigation and that I was to have nothing to do with any part of that investigation. As a result, a member of my staff, Admiral Welander, reported to General Haig that he concluded from the internal evidence of some of the documents that had leaked that they must have come from this office. General Haig asked me what to do with this and I told General Haig to send Admiral Welander to Mr. Ehrlichman.

Some weeks later, Mr. Ehrlichman called me to his office and played for me the tape that included the questioning of Admiral Welander by David Young. I knew, of course, that David Young was working for Mr. Ehrlichman. But to conclude from this fact that a one-time interview of an individual that my office had discovered and my office had sent to Mr. Ehrlichman; to conclude from this fact either that Mr. Young was conducting a security investigation or even more, that Mr. Young was conducting security investigations as his regular activity is inconceivable.

If Mr. Ehrlichman had sent somebody to my office for a.. interview, I would certainly have assigned a staff member to that task and it would have been impossible to draw from that the implication that this was my staff member's full time duty.

At the time of the press conference in which David Young's name was raised, I did not know that he wrote a report on his investigation. Of course, I had never seen that report.

Since then I have seen the report in the form of a diary which was submitted to the Senate Armed Services Committee and it makes clear that at no time during this investigation did David Young have any contact with me whatsoever; did David Young talk to me or communicate with me.

Now it is true that the conduct of a government is complex and that the responsibilities of the Assistant for National Security are complicated. Moreover, I was engaged in many activities in which the protection of documents was the smallest part.

I do not doubt that now when this transcript is analyzed it is possible to find this or that nuance and to engage once again in the process of defaming public officials, but I know for a fact that the testimony I have given was truthful to the best of my recollection.

I joined this Administration five years ago when this country was deeply divided. I felt that with my particular background I had a special obligation to understand the dangers of national division and to do my best to overcome them.

None of you in this room have ever heard me attack the motives or the purposes of those who disagreed with us. All of you in this room know from your profession that the truth very often has intangible aspects.

I believed also that because of my previous association, I had a special obligation towards those who were not frequently members of this Administration and I intended to discharge this through all the turmoil of the national debates, but it seems to me that our national debate has now reached a point where it is possible for documents that have already been submitted to one committee to be selectively leaked by another committee without the benefit of any explanation, where public officials are required to submit their most secret documents to public scrutiny, but unnamed sources can attack the credibility and the honor of senior officials of the Government without even being asked to identify themselves.

I have been generally identified, or it has been alleged that I am supposed to be interested primarily in the balance of power. I would rather like to think that when the record is written, one may remember that perhaps some lives were saved and that perhaps some mothers can rest more at ease, but I leave that to history.

What I will not leave to history is a discussion of my public honor. I have believed I should do what I could to heal divisions in this country. I believed that I should do what I could do to maintain the dignity of American values and to give Americans some pride in the conduct of their affairs.

I can do this only if my honor is not at issue and if the public deserves to have confidence. If that cannot be maintained, I cannot perform the duties that I have exercised, and in that case, I shall turn them over immediately to individuals less subject to public attack.

So, I have put before you the facts as I know them. They are consistent with my testimony before the Senate Foreign Relations Committee. I do so not to maintain a position in the Government which I will not maintain for one day beyond the public confidence; I do so because simple fairness requires that either there be an exoneration or that there be a public accounting of those who engage in the defamation of character.

I repeat, I am willing to repeat under oath before congressional committees, what I have said here.

I say it here only because I wanted to spare the United States the indignity and humiliation of having its Secretary of State, while engaged on a trip to the Middle East, constantly exposed to these public charges and this is all I want to say, but I will be delighted to answer any questions and I will stay as long as there are questions.

Mr. LISAGOR. Mr. Secretary, in the nature of this meeting it seems terribly important for you to identify those whom you regard as engaged in defaming your character. Can you do that?

Secretary KISSINGER. I do not know the name of the unnamed sources who allege that my testimony before the Senate Committee was untruthful, who claim to know that the facts contradict what I said and I do not know their names.

Q. Then may I follow, please? How can there be a public accounting of those as you suggested at the end of your remarks?

Secretary KISSINGER. I believe that if public officials must give an accounting of their activities, those who print the accusations should state where these accusations come from so that a judgment can be made about the motive of the individuals making them.

I have submitted all the documents that I have voluntarily, to the Senate Foreign Relations Committee last year and I explained every document of which I had personal knowledge to the Senate, first in the session with Senator Sparkman and Senator Case and then in the meeting of the full committee. I could do no more than that.

Q. Dr. Kissinger, you said today that you felt there were more leaks coming. Is that one of the reasons why you decided to speak to us today?

SECRETARY KISSINGER. No, I am speaking of the leaks with which I am familiar and since I know that not all of the documents have yet leaked, there could be more leaks.

Q. Do you expect that campaign—if you can characterize it that way—will continue?

Secretary KISSINGER. Mr. Chancellor, I do not want to make any estimate of whether this will continue, nor do I even want to question the good faith of those who are leaking the documents. I know the documents that are being leaked. I submitted them to the Senate Foreign Relations Committee. Individuals reading them without an explanation of their context can easily come to some of the conclusions that have been made. I understand this.

Q. Well, then, who gets the public accounting, sir? If you say that fairness requires exoneration or a public accounting of those who engage in these practices, what sort of public accounting would you have in mind?

Secretary KISSINGER. I have in mind that those who leak documents should step forward and explain what they are doing and why they are doing it.

Q. Mr. Secretary, you seem to imply here that if this campaign is not stopped, you are going to resign. Is that a fair assumption from what you said?

Secretary KISSINGER. I am not concerned with the campaign. I am concerned with the truth. I do not believe that it is possible to conduct the foreign policy of the United States under these circumstances when the character and credibility of the Secretary of State is at issue. And if it is not cleared up, I will resign.

Q. What has the President said to you in relation to what you told us, and I am sure

you have in various versions given him your same thoughts. What was his reaction?

Secretary KISSINGER. This is a question of my honor and I told the President that I should give you a public accounting and he agreed and we had no further discussion on it whatsoever.

Q. Is this primarily a matter of interpretation? Are you asking that these documents be made public so we can get the just position of the documents?

Secretary KISSINGER. If the individuals mentioned in these documents agreed, I have no objection to their being made public.

Q. Dr. Kissinger, would you tell us please, just who it was that you asked to supply the names of three criterias you gave. I don't think you gave us a name who asked you.

Secretary KISSINGER. These three criteria were established at the meeting attended by the President, the Attorney General, and the Director of the FBI. I do not remember which of the three individuals gave the precise order, but I understood the order to come from the President.

Q. Was it one of those three who passed on to you the three criteria?

Secretary KISSINGER. It occurred at that meeting.

Q. I am saying was it one of those three people who told you what the criteria was?

Secretary KISSINGER. That is correct.

Q. You don't remember which one?

Secretary KISSINGER. I do not remember that, no.

Q. Could you also elaborate on the third critieria? I wasn't really clear as to what it referred to. Would you give us three again?

Secretary KISSINGER. The three criteria were individuals who had adverse information in their security files, individuals who had access to documents that had leaked or individuals who in the course of an investigation appeared as possible sources of leaks. That third category, of course, was largely supplied by the FBI, since we did not conduct our own investigation.

Question. Dr. Kissinger, are you suggesting that it is the responsibility of reporters who have written stories of those leaks and/or editors who have printed those stories that they should come forward and identify their sources?

Secretary KISSINGER. I am suggesting that when the credibility of senior officials is put in question on the basis of unnamed sources for the selective leaking of documents and when this attack affects not only the individual concerned, which may be a personal injustice, but affects the standing of the United States in the world, then I believe an obligation exists in one way or another to do this, yes.

Question. Dr. Kissinger, I am sorry if you answered it and I missed it, but are you saying that it is the responsibility of the person who provides the information or the responsibility of the news media that uses it to identify these sources?

Secretary KISSINGER. I don't want to get into a debate about the ethics of the news media and what their responsibility should be, and if it eases the discussion, I will withdraw that particular remark, because it is not the central point of my presentation.

The central point of my presentation was to repeat again on the public record the things that I said in an executive session before the Senate Foreign Relations Committee and to do it in a concise and manageable form and to say that it is not possible to conduct national policy in the face of this sort of attack.

Question. Dr. Kissinger, you are under attack and you think you are being defamed. I also understand that you may have opposed the President's current trip because of his problems in the same area. Did you oppose the trip and what do you think? Should it go on under your criteria?

Secretary KISSINGER. I did not oppose the President's trip. The President's position is quite different from mine. He is an elected official. He was invited by the heads of government in a period of great transformation of international affairs and he has a duty as a President, as long as he conducts the Presidency, to conduct it in the name of the national interest and not be deflected by what may go on domestically.

Question. Dr. Kissinger, you are suggesting, sir, that those who have made these accusations should state why they are making them. Are you suggesting that there is something insidious about this process?

Secretary KISSINGER. I really don't want to get into the debate on side issues. It is not necessary. I am not trying to imply that there is anything insidious about it. But I am trying to imply that there is something happening in our public debate when coming back from a 5-week negotiation, I am being asked a question for which I had no conceivable way of being prepared, that could not have been further from my mind and because I was naturally flustered in the reply, as any honorable man would be when he is asked whether he has retained a counsel for perjury after having just returned from an extended mission abroad, that then that fact is being used to prove there must be something hidden and there has been something less than candor, but I do not want to turn this into a debate between myself and the news media.

I am trying to call attention to an objective problem that exists and to the difficulty, if not impossibility, of conducting national policy in such an atmosphere, whose ever fault it is.

Question. Could I beg a question, sir? You say you are concerned about affecting the standing of the U.S. in the world and yet, at a very critical time, you have raised the prospect of your own resignation which would indeed affect the standing of the U.S. in the world. On that basis, is it not required that you more specifically define the circumstances under which you will shelf your statement about the threat to resign?

Secretary KISSINGER. I cannot conduct my office if I have to devote my energies to disproving allegations of perjury, nor do I believe that the United States can conduct an effective foreign policy with a Secretary of State who is under such attack and therefore, I am simply stating a reality.

I have attempted, however inadequate, to set some standards in my public life. If I cannot set these standards, I do not wish to be in public life.

Question. Would you be satisfied if the leaks ceased, as of now?

Secretary KISSINGER. No. I think this issue now has to be resolved.

Question. If the Senate Foreign Relations Committee resumed its hearings and went through the whole matter again and gave you a clean bill of health, would you then withdraw your threat to resign?

Secretary KISSINGER. Yes.

Question. Is that the method that you prefer?

Secretary KISSINGER. I will not propose a method.

Question. Do you think these leaks are designed to force you to resign, sir?

Secretary KISSINGER. I don't believe that, and I do not believe that I am surrounded by a conspiracy. I have not had unfortunate experiences with the press. I think if this can happen to someone whose relationship with the press has been as good as I believe mine has been, then we are facing a national problem, not a personal problem. I do not believe there is the slightest personal animosity against me about this.

Question. Dr. Kissinger, I am still not quite clear in my own mind what you feel your role was in initiating the wiretapping program. Now you said the decision, if I understand you correctly, was actually made at a meeting between the President, the Attorney General, then Mr. Mitchell, and the head of the FBI, then Mr. Hoover. Now, do you feel that you played a major role in getting that program started or do you feel you were kind of an innocent bystander who, in effect, played a minor role? What is your own concept of your role?

Secretary KISSINGER. My concept of my role to which I testified before the Senate Foreign Relations Committee, and which Elliot Richardson also supported, I may say, from the record—not on the basis of conversations with me as has been alleged in a newspaper article—my concept of my role was that on a number of occasions I called to the attention of the President, it would seem to me, very significant security leaks.

This, then, led the President, I believe on the recommendation of the Attorney General and the Director of the FBI, to institute a program of wiretapping. I did not, myself, propose this program. I was new in the Government and, therefore, I also was unaware of the fact that such a program, according to the Director of the FBI, had also been carried out in every previous administration since Franklin Roosevelt.

So, in retrospect, I would have to say I undoubtedly contributed, by my description of the security problem, and being new in Government, it is possible that in one or two cases I may have have taken an exaggerated view of them. I did not recommend the program as such, though this does not mean that I disagreed with it. I find wiretapping distasteful. I find leaks distasteful, and therefore, a choice had to be made. So, in retrospect, this seems to me what my role has been.

Question. Mr. Secretary, would you go over again once more under what conditions you would withdraw your threat to resign?

Secretary KISSINGER. I believe that the committee which looked over the records initially, which still has all the records available, and which has a primary interest in the Senate in the conduct of foreign policy, might appropriately do it. There may be other mechanisms for doing it. I want to make absolutely clear, I am not making this as a threat in order to gain support. I am stating an objective fact.

It is impossible and incompatible with the dignity of the United States to have its senior official and to have its Secretary of State under this sort of attack in the face of the dangers we confront and the risks that may have to be run and the opportunities that may have to be seized. This is a fact. This is not a threat.

Question. But, Mr. Secretary, does not that same objective of fact apply to the President of the United States even though he is an elected official?

Secretary KISSINGER. The President is the only nationally elected official. For a President to resign under attack would raise the most profound issues of national policy and in my judgment a President can leave office only according to the constitutional processes that have been foreseen for it, a position which I believe has also been maintained by the leaders of the Democratic Party.

I strongly support that position. An appointed official has no such responsibility to the elective process. An appointed official has a responsibility only to the immediate conduct of his affairs.

Question. Dr. Kissinger, you have raised the threat of resignation on the eve of a trip to the Middle East during a month when you are going to the Soviet Union as the senior foreign policy official of the United States. I am sure a lot of people are wondering, could this threat have waited until the end of these negotiations?

Secretary KISSINGER. Not while there were daily editorials asking for an explanation of

a shady affair, not while editorials say his fitness for public office is at issue, not while headlines say, "A blot on Mr. Clean." Under what conditions do you suppose one can conduct one's affairs?

Question. Dr. Kissinger, do you intend to continue this trip, or might you drop out and return to Washington at some point?

Secretary KISSINGER. I intend to continue this trip, but I would be glad to return for any Congressional Committee that wants me.

Question. Mr. Secretary, could you tell us who has physical custody of the documents that are being leaked today? What groups of people have custody of these documents?

Secretary KISSINGER. I believe the House Judiciary Committee has custody of some of the documents that are being leaked.

Question. The Senate Foreign Relations Committee?

Secretary KISSINGER. I don't believe they have them. The Senate Foreign Relations Committee in all my dealings with them never leaked any of these documents. I do not know whether they have custody of them. I don't believe so.

Question. The White House has copies of them.

Secretary KISSINGER. The White House probably has copies of them, I don't know.

Question. Dr. Kissinger, did you at the time when these decisions were made have any doubt about the ethicality—save the legal aspects—did you at that time have a question in your own mind whether it was ethical or not and now with the benefit of hindsight do you have any doubt at all in your mind that it was ethical.

Secretary KISSINGER. At the time I found it an extremely painful process. It involved in some cases individuals with whom I had been closely associated. It involves threats to individuals, who if they had been found to be security leaks, would have reflected badly on my own judgment.

So I did not find it a task that was particularly pleasant. But I could not quarrel with the judgment and I did not quarrel with the judgment of those who found it necessary.

At my confirmation hearings I testified in executive session—not in public session—I testified in executive session that stricter regulations than were then in force or had been in force in previous Administrations would be compatible with the objective of national security.

Question. You said a few minutes ago that you told the President you were going to come out here and raise these issues. Two questions: Have you discussed with him specifically the possibility of your resignation?

Secretary KISSINGER. I did not discuss the content of what I would say with the President.

Question. Have you discussed the possibility of your resignation and if so, what has been his reaction?

Secretary KISSINGER. I have not discussed the content of this press conference with the President before giving it. I felt this was a matter in which I had to state my view.

The Press. Thank you, Mr. Secretary.

DR. HENRY A. KISSINGER

The PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. JAVITS) is now recognized for not to exceed 15 minutes.

Mr. JAVITS. Mr. President, I have sought this time this morning to address myself to the Italian crisis——

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to ask him a question?

Mr. JAVITS. Certainly.

Mr. ROBERT C. BYRD. Does the Senator anticipate that he may need more than 15 minutes to speak this morning?

Mr. JAVITS. No.

Mr. ROBERT C. BYRD. If he does, the distinguished Senator from Wisconsin (Mr. PROXMIRE) wishes to vacate his order to speak this morning and would be glad to transfer his time to the Senator from New York.

Mr. JAVITS. No, I shall not.

Mr. ROBERT C. BYRD. I thank the Senator very much.

Mr. JAVITS. Mr. President, before I address myself to the profound matter of Italy, I should like to state that although I was absent yesterday, I associate myself strongly with the expression of support and appreciation of Dr. Kissinger's service to the Nation which I heard reported, in connection with the resignation of Dr. Henry Kissinger as Secretary of State.

To me it is most distressing that such a matter should even be under serious discussion. I express great gratification that the Committee on Foreign Relations, of which I am a member, at its meeting which I attended and participated in, has undertaken to look into the question and to call Dr. Kissinger when hearings, should they be required, are held. Beyond everything else—and this I think is most important—there should be a sense of finality to the Foreign Relation Committee's proceedings, so that any questions arising out of the confirmation testimony of Dr. Kissinger should not be permitted to hang in the air, as to the veracity of that testimony. The questions should be definitely determined by the action of the Committee on Foreign Relations and its recommendations to the Senate, if that be required, so that then the Secretary would be able to go on with his work without the question remaining open. As one who feels that Secretary Kissinger has rendered a great service to our country, I am hopeful that the matter will be resolved in this way; that is, by a determination of the Committee on Foreign Relations.

Mr. President, I ask unanimous consent that my statement, issued the day before yesterday, when the matter was first reported in Secretary of State Henry Kissinger's press conference, be printed in the RECORD.

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

JAVITS STATEMENT ON POSSIBLE RESIGNATION OF SECRETARY OF STATE HENRY KISSINGER

Following is the text of a statement today by Senater Jacob K. Javits (R-NY) with regard to Secretary of State Kissinger's announcement that he may resign.

"I hope very much that Dr. Kissinger will not resign. It seems to me that it would be uncharacteristic of him to resign when statements which he stands by are challenged. This is especially important because of his great value to our country and the future of peace in the world.

It is appropriate that the Foreign Relations Committee, before which Dr. Kissinger testified on the National Security Council employee wiretaps in his confirmation hearing, should review his testimony as he has requested in view of the allegations made respecting such testimony. I so moved with Senator Scott before the Committee today and the resolution was adopted."

Mr. JAVITS. Mr. President, I will now proceed to the Italian crisis.

THE CRISIS IN ITALY

Mr. JAVITS. Mr. President, Italy is facing a crisis of awesome proportions both financially and politically. This is the first of the oil-produced crises. The country is teetering on the edge of bankruptcy, the government of Sr. Mariano Rumor has recently fallen after a mere 12 weeks in office, and the threat of right-wing terrorism could offer the grim vision of utter political collapse. The collapse of Italy could severely undermine the European Community and precipitate an economic crisis of the gravest danger to the U.N. and every other country in the world putting all in the fire of a world depression. Also there are millions of Americans of Italian extraction who are deeply concerned about the grave danger to the people of the land of their ancestors.

At the beginning of the week I drew the attention of my colleagues to an article in the London Economist entitled "The Approaching Depression." Although I would not predict a 1929 style crash based on existing conditions, I had nevertheless to point out that some very disturbing conditions now exist, particularly the inability of the international financial system to handle the severe imbalances caused by the dramatic increase in oil prices since last year. That particular problem is at the root of the Italian crisis, and explains why this particular balance-of-payments crisis is so much more severe than those Italy experienced in 1963 and 1969.

It is variously estimated that by the end of 1974 Italy will have a balance-of-payments deficit of between $7.5 and $8.5 billion, of which approximately $5 billion will be due to the higher oil prices. Italy imports 95 percent of her oil. In 1972 Italy was spending $2.6 billion for oil; by 1973 this figure had climbed to $4 billion; and in 1974 Italy will have to pay about $10 billion for her oil. Other European countries are also heavily dependent on imported oil and will also suffer extremely large BOP deficits. The French oil deficit will run about $12 billion, as will Britain's, and Japan will have an oil bill of about $18 billion. However, the Italians are becoming the first casualty of the oil crisis because of the weakness of their balance-of-payments situation before the oil crisis began.

In order to finance these growing deficits without using gold or other monetary reserves, Italy has been borrowing heavily abroad. In the last 2 years Italy has borrowed about $10.5 billion, which have been used in massive intervention to avoid an excessive depreciation of the lira in foreign exchange markets. Much of Italy's recent borrowing has been on the Eurodollar market, but Italy has pushed these borrowings to the limit.

Among other resources that Italy could draw on are various swap agreements: $3 billion with the Federal Reserve Bank of New York; $1.25 billion with the Bank for International Settlements in Basel, Switzerland; $250 million with the Swiss National Bank; and $2.5 billion with the

Common Market countries—although this last has been drawn down to about $500 million. Italy has monetary reserves that stand at about $6 billion, and gold reserves worth about $3.5 billion, but—and this is a big "but"—at the official price of $42.22 per ounce. However, at current market prices, the gold reserves are worth roughly $14 billion. Italy is understandably reluctant to part with her gold reserves.

Italy is understandably reluctant to depart with her gold reserve. Yesterday she had a very encouraging development, which is reported in this morning's newspapers—that is, that the Group of Ten leading industrial nations of the world agreed to permit national monetary gold holdings to be pledged as collateral for loans at a price agreed upon between lender and borrower. This should help Italy, enabling her to use the collateral at much higher than the official price. But it is not the total answer.

It should be emphasized that these final resources are an absolute last resort, and in fact the central bank has barely enough cash for this month's commitments. The serious balance-of-payments deficits cause great pressure on the lira, which in turn exacerbates domestic inflation. Even we in the United States, far less dependent on external trade than the Italians, have learned the inflationary impact that results from currency depreciation. Italy's rate of inflation this year, 20 percent, is the highest among the industrial countries.

Italy's financial woes are beginning to creep into every sector of society. The state electrical board is $1 billion in debt. The state hospitals are $5 billion in debt and may close down this week because they cannot pay the $50 million they owe for cotton and gauze, and cannot secure more until they pay their debt. It is even estimated that half the largest towns and cities will have no funds to meet next month's payrolls.

Even the filmmakers and grand opera are suffering. The outdoor opera at the Bath of Caracalla, a regular summer feature, will probably be canceled, and the Teatro del' Opera had to cancel a new production of Verdi's "Don Carlo" after two performances because it lacks the necessary funds to continue. More serious, however, are the strict credit curbs that are beginning to restrict business borrowing, resulting in production cutbacks and employee layoffs.

In order to squeeze imports and reduce domestic demand, the government recently imposed a 50-percent deposit on certain imports, interest free, for 6 months. Other measures proposed to cut domestic spending include raising the price of gasoline to $2 a gallon, a 40-percent increase in electricity rates, higher bus fares, and various sharp increases in both personal and value added tax. It is questionable whether these proposals will be adopted, or even, if adopted, will prove more effective than some of the existing measures which seem to be evaded by the Italians.

The end result of these conditions, according to Giovanni Angelli, chairman of Fiat, the leading industrial firm in the country, could be national bankruptcy, unless something is done and done quickly, and the Italians and a concerned world may face the extremely unpleasant choice between economic chaos and abandoning the institutions of a free society. He believes that disaster may be only a few months away.

It is not idle speculation that, under these circumstances, Italy's democratic institutions may not survive.

Italy has the second largest Communist Party on the continent of Europe, outside of the Communist countries, and it is entirely possible that the Communists may assume a major role in government or that there could be a right-wing coup.

Italy may not be as vulnerable to a right-wing coup as the Greeks were in 1967, but the possibility does exist. George Ball, former Under Secretary of State, has noted that the entire Mediterranean tier of Europe—Italy, Portugal, Spain, and Greece—is on the verge of economic and political upheaval.

In these circumstances, it is imperative that the industrial countries, including the United States, through suitable international or coordinated national actions, come to the rescue of Italy.

Mr. President, I wish to emphasize at this point that to come to Italy's rescue does not mean unconditionally. Italy is suffering very seriously from diminutions in production and other very serious basic problems involving both industry and agriculture which urgently need corrections. Under the circumstances, the world has a right to demand that they should be corrected.

It is, of course, understandable that through the International Monetary Fund, the World Bank, or some international consortium of government for the purpose of coming to the rescue of Italy in this emergency, suitable conditions will be established for such assistance which will be desirable for Italy as well as for Western Europe and the world economic and trading system. I am sure that these can be developed and that the parties can agree on them.

This is a very grave crisis, not only for Italy's economy but for the total democratic institutions. The important point is that it should be done in time and in adequate amount. I would hope very much the United States, the principal economic and financial trading partner on Earth, would participate in this effort, both in the planning and the execution, for its full and fair share—I emphasize again: With other countries and on appropriate conditions.

It is my belief that should our authorities present us with such a plan, which I hope very much they will do, Congress should also have an opportunity to consider it.

Considering the relationships between Italy and our country which are so historic and so elevated and fine, including the heritage of millions of Americans of Italian extraction, I believe that the United States will prove to be ready to do its fair share under the constructive terms that I have mentioned.

Mr. President, I ask unanimous consent to have the following materia printed in the RECORD: An article and an editorial published in the New York Times of June 13, 1974; an article published in the Economist of June 8, 1974; and a speech by Guido Carli, Governor, the Bank of Italy, at the annual meeting of the Bank of Italy, on May 31, 1974.

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

[From the New York Times, June 13, 1974]

ITALY IN DISTRESS

Italy's second political crisis in three months has the same origin as the first: the impact of a four-fold increase in oil prices on an economy already suffering from strains difficult for a weak coalition government to resolve. The international cause of the trouble suggests that it requires an international solution.

Without the petrodollar burden, which has lifted Italy's payments deficits abroad recently to almost $1 billion a month and an estimated $3.5 billion for the year, Rome might have been able to cope with the overheated boom and price rises that followed several years of recession. But now tougher measures than an Italian Government normally is capable of taking are being prescribed by Italy's creditors abroad as a prelude to further loans.

Ostensibly, the International Market Fund and the Common Market are merely asking Italy to cope effectively with its pre-energy-crisis inflation and deficits. The international community is agreed that the oil deficits themselves must be financed in other ways without restrictive measures at home or affecting trade and exchange rates. Since all the advanced countries will be in deficit for many years, nothing is to be gained by shifting burdens from one to another by domestic deflation, trade restrictions or competitive currency devaluations. The oil exporting countries, which are acquiring surplus funds equal to the deficits of the oil importing countries, are the only ones who can finance the deficits, whether they do it directly or indirectly by depositing their funds abroad.

The problem now arising is that the oil money deposited abroad is heading into only a few countries and others, like Italy, have been forced to borrow there. The deposits are short-term, sometimes left on a day-to-day basis. The so-called Eurodollar banks are beginning to feel nervous about lending out this short-term money long-term. The international community possesses neither a central bank, nor any other lender of last resort, nor even the kind of deposit insurance national governments provide.

Having encountered resistance to further loans in the Eurodollar market, Italy has had to turn to the I.M.F. and the Common Market as well as individual allies, such as the United States, for loans—and they have laid down conditions that twice in a few months have split Italy's coalition governments apart.

The new government that emerges from the present crisis undoubtedly will again be a weak coalition. If it is to survive, it will need more generous help from its allies stemming from better international management of the interdependence that now exists among the industrial nations. It is the world's chief monetary powers, whose finance ministers are meeting at the I.M.F. in Washington today, who hold the solution to Italy's political crisis in their hands, not the politicians in Rome.

[From the New York Times, June 13, 1974]

ACCORD SET ON USE OF MONETARY GOLD

(By Edwin L. Dale, Jr.)

WASHINGTON, June 12.—The 10 leading financial powers have agreed upon a plan to make national monetary gold holdings

at least partially usable again by permitting them to be pledged as collateral for loans at a price to be agreed between the lender and the borrower.

The agreement was announced this morning in a brief statement by the United States Treasury following a dinner meeting last night of the "group of 10" leading financial nations. The dinner preceded today's formal meeting of the "Committee of 20" nations negotiating world monetary reform.

Monetary gold has been immobilized because of its artificially low "official" price of $42.22 an ounce. Under the new plan, countries having deficits in their balance of payments and wanting to use some of their gold could pledge it as collateral for loans at a price that would clearly be much higher than the official price. The market price of gold is almost four times the official price.

Although the new plan would make monetary gold "valuable" and usable again—particularly for such countries as Italy, which have substantial payments deficits—the use of it as collateral for loans would not result in a new and higher official price, nor would it again enthrone gold at the center of the monetary system. This was why the United States was willing to agree to that plan.

The two-paragraph Treasury statement said:

"In the Treasury's view, the finance ministers are making useful progress toward the twin objectives of agreeing on the procedural steps to phase gold out of a central role in the monetary system and at the same time permit it to be mobilized when needed by countries in balance-of-payments diffculties.

"Among the possibilities, the ministers agreed in principle that gold could be used as collateral for international borrowing (N.B.: As in the case of all loans, this presumes that the lender would set the value on collateral pledged, and therefore such a plan would not necessarily envisage valuing gold at a market-related price.)"

A Treasury spokesman said he did not know whether the loans in question would be only from governments and central banks to one another or whether loans from the private capital markets were also to be included. In any case, it remains to be seen how extensively the new means of utilizing gold reserves will be employed.

The Committee of 20 meeting today—the first of a two-day session that will end with a communique tomorrow—reportedly did not tackle the gold question. Instead, agreement was understood to have been reached on a new value and interest rate for Special Drawing Rights, the international monetary reserve asset issued by the International Monetary Fund that is supposed to replace gold as the central asset in a reformed monetary system.

The S.D.R. in the future will have its valued based on the exchange rates of a "basket" of important currencies, reportedly 16 of them. Its present value is linked to the official price of gold.

The interest rate reportedly will be 5 per cent as long as market interest rates in the leading countries remain about where they are. The rate could move in the future up or down with market rates.

[From the Economist, June 8, 1974]

A CONCERNED COUNTRY

Signor Rumor's Italy, with its economy very close to the brink, has precious little room for manoeuvre left between the extremes of right and left.

Even in a Europe that has enough ailing economies to fill a good-sized sickroom, Italy is a special patient. An awed silence falls on the rest of the hospital when the details of Italy's present troubles are described: the size of its trade gap, and a rate of inflation that beats even Britain's (see the chart). There are plenty of Italians who have been talking about the possibility of economic collapse in recent months. They were joined last week by the new president of Confindustria, Italy's equivalent of the Confederation of British Industry, Signor Agnelli of Fiat. Signor Agnelli says that disaster could be only a few months away for Italy: unless something is done to stave off national bankruptcy, and done quickly, he says it could come to a choice between economic chaos and abandoning the institutions of a free society.

Since Signor Agnelli's speech, others have spelt out the details of what they see as Italy's approaching apocalypse: an $8.5 billion balance-of-payments deficit by the end of this year; a lira that will find no foreign lenders with enough trust in Italy's creditworthiness to see the country through its crisis; factories closing down for lack of raw materials and fuels; a vast army of unemployed; and then the political explosion. Of course, Italy is not alone, but it is closer to the brink than most, and it would be wrong to dismiss these fears.

The 50 per cent surcharge that was imposed on nearly half of Italy's imports in May has done something to help, even if it also made its own contribution to the troubles of the European community. Many Italians doubt whether the deeply divided government of Signor Rumor has the will or the cohesion to take the other measures that will be necessary. But events may be pushing even Italy's government toward a willingness to act. The bomb explosion in Brescia on May 28th, in which seven people were killed and nearly 100 were injured, may just conceivably have given the government the nerve it needs.

The extreme right-wing group that organised the Brescia bombing seems to have planned it as a prelude to a series of acts of sabotage and violence on the eve of Italy's republic day on June 2nd. The apparent object was to discredit the government and the security forces and create a panic out of which some strong man of the right's dreams might ride into power. As it happens, the Brescia murders may have achieved the opposite. They have certainly stung the government into more than usually energetic action against the extremists. On May 30th, two days after the Brescia bomb, a special security inspectorate was set up to deal with terrorism. That might sound like little more than good intentions: but the government has suspended two senior police officers in Brescia, and apparently plans to remove other officials suspected of shutting their eyes to the existence of known terrorists.

The theory, or rather the hope, is that tough action against right-wing terrorists will persuade Italy's trade unions to join in an Italian version of the social contract to control inflation. It could help. But the difficulty is that an opening to the unions is not easy to distinguish from an opening to the Communist party. There are plenty of Italians, not least the Communists themselves, who argue that the Communists ought to be brought into the government, or at least into an arrangement by which their votes would support the government in parliament. That would be a neat reversal of the more usual process in which violence from the left causes a right-wing backlash.

It is not to be excluded that Italy will be the next European country, after Portugal, to take the Communists into a major role in government. Signor Berlinguer's party has for many years looked a rather likelier prospect than M. Marchais's blinkered lot across the border in France. On Monday Signor Berlinguer repeated the offer of an "historic compromise" with the Christian Democrats that he made last autumn. But the majority of the Christian Democratic party, and a good many other people in the Italian political spectrum still doubt the genuineness of his democratic credentials.

There are plenty of people to believe that if Signor Rumor's government cannot get Italy's economy under control there will be one of those right-wing coups that so often get prophesied for Italy. The Italians are not as vulnerable to that as Greece was in 1967; many of them suspect their colonels are not competent enough to organise a coup. But there are limits to the disruption that a country with no long habits of affection for its central government can be expected to bear. Those limits would almost certainly be passed, if, on top of everything else, the problem with a Yugoslavia that is trying to work out what it will do after Tito should present a challenge to Italy's eastern frontier: more Soviet influence in Belgrade could well bring the colonels to power in Rome.

SPEECH BY GUIDO CARLI, GOVERNOR OF THE BANK OF ITALY, AT THE ANNUAL MEETING OF THE BANK OF ITALY ON MAY 31, 1974

In 1963 and 1969 Italy experienced balance-of-payments crises; in both instances, the use of credit policy instruments made it possible to overcome the crises without resorting to restrictions on imports; there followed a slowdown in productive activity, but our economy's capacity for recovery did not suffer. During the interval between the two crises, the growth rate of income remained high, even though its distribution was unsatisfactory. The balance of payments on current account registered a surplus, which resulted only partly in an increase in foreign currency reserves. The price level was as stable as in those countries least willing to accept inflation. During those years, some countries revalued their currencies while others devalued; there were balance-of-payments crises, imports quotas, restrictions, the creation of compulsory deposits and additional tariffs on imports. But this succession of events did not stop trade from acquiring greater impetus within a system of inter-dependent economies.

One should ask oneself whether the same monetary policy instruments can be used today to achieve the same results. Two elements distinguish today's crisis from the preceding ones:

(a) in 1963 the balance-of-payments deficit originated from the balance on current account and represented 1.4 percent of national income; in 1969 its origins lay in capital outflows that were huge in relation to the current account surplus. This year the expected deficit, including the oil deficit, represents about 6 percent of income: this ratio is without precedent in any industrialized country.

(b) in 1969 the households' financial saving amounts to 6,300 billion lire and the portion of this flow used by the public administration and the autonomous government agencies stood at 1,850 billion, that is 29 percent; in 1973 the households' saving was 13,250 billion lire, while the public sector used 8,260 billion, or 62 percent.

In Italy the ratio of the volume of financial assets to income has become greater than in most industrialised countries. Consequently, the effects of monetary policy are wider-reaching and the policy-makers have greater responsibilities. Since the public administration uses a larger percentage of savings in Italy than in other industrialised countries, defending the portion allocated to production involves a harder struggle during credit squeezes. Over the last five years, the greater services supplied by the public administration have not been matched by an increase in taxation: consequently, savings were tapped to a greater extent. Higher taxation would have been partially offset by reduced formation of savings; this, in turn, would have led to reduced accumulation of financial assets in the form of bonds, deposits, banknotes. There would be less danger of people converting their financial assets

into cash, thus compromising the stabilisation policies.

Years ago the law and its statutes forbade the Banca d'Italia to finance the public sector or placed rigid limits on the extent of that financing. Heroic behaviour was not required of the Governor of the Bank, he was only expected to be a diligent administrator, checking that the relative proportions between the various balance-sheet items, as set by the law, were observed. Heroic behaviour is not required of him today either, but he is expected to reconcile objectives belonging to a vaster framework: growth of income, full employment, price stability, balance-of-payments equilibrium. When these objectives can no longer be reconciled, choices must be made. On the occasion of the previous Meeting of Shareholders, we stated that: "Should it become necessary to limit the overall volume of credit, the reduction, owing to the rigidity of the public sector's demand, would mainly affect the directly productive sectors."

1928 saw the abolition, under the Issuing Institutes Act, of the ceilings on Banca d'Italia investments in Government or Government-guaranteed securities. We asked ourselves then, and continue to do so, whether the Banca d'Italia could have refused, or could still refuse, to finance the public sector's deficit by abstaining from exercising the faculty, granted by law, to purchase Government securities. Refusal would make it impossible for the Government to pay the salaries of the armed forces, of the judiciary and of civil servants, and the pensions of most citizens. It would give the appearance of being a monetary policy act; in substance it would be a seditious act, which would be followed by the paralysis of the public administration. One must ensure that the public administration continues to function, even if the economy grinds to a halt. Moreover, the consequences of administrative chaos would be more serious. We cannot halt the drop in economic activity with only monetary policy instruments; we can use them to cushion that fall.

The banks and the special credit institutions are worrying about the pressure to which they are subjected by borrowers. The institutes and the bodies which raise funds by issuing bonds are faced with increasing difficulties and request permission to resort to new forms of fund-raising. Indexed issues covering all securities would tend to lower the prices of those in circulation; indexing is effective if limited to certain sectors of the financal market and if it remains optional for the parties involved. Industrial, real-estate and agricultural credit institutions and their central institutes are calling for help from the Banca d'Italia. We have been, and will continue to be, deaf to their cries for help. In our economy priority must be given to respecting the constraint of balance-of-payments equilibrium. The means for achieving this are well known; there are no miraculous cures: it is necessary to reduce the creation of funds destined to finance the public sector.

The links between Treasury deficit, balance-of-payments deficit and price level are not incomprehensible and we propose to prove it.

During the year from March 31, 1973 to March 31, 1974, the Treasury deficit led to monetary base creation of 7,780 billion lire. During the same period the draining of monetary base owing to the balance of payments on current account can be estimated at around 2,500 billion; if one includes capital movements, the reduction caused by the balance of payments rises to about 3,500 billion. Banca d'Italia operations pumped liquid assets for 990 billion into the system, mainly in the form of advances to the savings banks' central institute, as a result of the savings banks' withdrawals from their deposits with the Banca d'Italia under the pressure of the demand for credit by the public sector. The monetary base thus created, including the amount accounted for by post office deposits, was overall 5,150 billion; 3,470 billion was used by the public, of which 1,600 billion in the form of currency in circulation. The difference found its way to the banks and, along with a reduction in excess reserves, made it possible to satisfy the compulsory reserve quota.

The monetary movements described are the practical result of the Treasury's requesting a larger quantity of resources from the economy than the latter proved capable of supplying. The difference was supplied from abroad. Assuming that the contribution of reserves from abroad had not been sufficient, and given the Treasury's requirements and the method of financing them, the excess of demand over supply—which was financed by the increased credit resulting from monetary base creation—would have caused a far greater rise in prices than that which occurred. Foreign accounts would have been kept in equilibrium through an exchange rate change. The excess of demand over supply would have been eliminated by a higher degree of inflation.

Had we wished to restore equilibrium to foreign accounts without undergoing greater inflation, the Treasury deficit would have had to be financed by greater securities issues placed with the public and/or the banking system to about halve recourse to the Banca d'Italia. The volume of credit which flowed to the enterprises through the banking system would have been several thousand billion lower than it in fact was. In this case the equilibrium between demand and supply would have been restored by tightening demand on the investment side.

Balance-of-payments equilibrium could have been achieved by increasing taxation on the households' available income. In this case the restriction would have been centered on private consumption and could have spread from there to investment. It would not have been necessary to reduce credit to the enterprises to leave room for credit to the Treasury. To achieve these results the increase in taxation, during the period under consideration, would have been in the region of 4,500 billion lire. If, having expanded exports to the maximum allowed by the trend of foreign demand, the balance-of-payments equilibrium had been obtained by limiting imports, domestic demand in real terms would have had to remain the same as in 1972; national income would have increased 2 per cent.

The above considerations prove that the process of adjusting our balance of payments is not an impossible one, but it is certainly a painful one when it must be carried out through an overall limitation of demand. It is all the more painful, the more the disequilibrium is the result of a deterioration in the terms of trade; but this does not mean that the adjustment should not be carried out.

Since the necessary reduction in real income is smaller the greater the possibility of reducing the propensity to import with selective provisions, it appears that the rational basis of the recent provisions has been proved.

The introduction of a 50 percent compulsory deposit on imports of certain goods accentuates the reducing effect of the balance-of-payments deficit on monetary base. While a restrictive credit policy is in act, this effect is not offset; therefore it affects demand.

With a reduced supply of foreign goods there should be a correspondingly slacker demand as a result of the credit squeeze. The compulsory deposit of 50 per cent of the value of imports, which practically results in the importers having to underwrite a public loan, reduces the dangers of excessive monetary base creation. If the imports are made, the deposit increases the Banca d'Italia's power to control the overall volume of credit. If the imports are not carried through, the need for that control is lessened by the fact that the credit squeeze in act has alone helped to reduce the balance-of-payments deficit.

If the balance-of-payments deficit falls as a result of credit granted by foreign exporters to Italian importers, the advantage obtained is short-lived; with this in mind, we introduced measures prohibiting the banks from granting guarantees to firms exporting to Italy.

Our balance-of-payments crisis is the most serious aspect of a wider crisis which was set off by the increase in the price of oil. We must not cease to collaborate in all the international organisations in order to have price relationships between oil and industrial products that make it possible to eliminate the balance-of-payments disequilibrium, while ensuring that it is financed during the period necessary for making the adjustment. During the adjustment period one could experiment with setting up an international agency to buy collective supplies of oil; collective guarantees for loans to be taken out during that period might make it easier to run such a scheme. Meanwhile, until some solutions are produced, stabilisation policies using monetary instruments are becoming widespread and are at the root of recessionary impulses. The introduction of import quotas for oil products and their extension to nonoil products could become inevitable.

At the beginning of the year, the deficit of the Government sector was estimated at 9,200 billion lire for 1974. This deficit was linked to a balance-of-payments deficit near the 5,500 billion mark; but a deficit of this size is unbearable. The European Economic Community recommends that we rapidly reduce it and gives a ceiling of 2,000 billion lire for 1975. In order to achieve this objective the EEC recomends that we limit over all financing to the economy to a considerably smaller figure than the 22,400 billion stated in the letter of intent which the Italian Government sent to the International Monetary Fund. To this effect, the EEC urges the reduction of the Treasury deficit and its financing through the creation of monetary base and a sharp cut in the deficits of the local authorities, social security institutions and autonomous agencies; taxation must increase and the tariffs for possible services must be raised when they operate at a loss.

We are encouraged to accept the suggestions of the EEC by the urgent need to keep the balance-of-payments deficit within limits which allow it to be financed by using credit lines, so far untouched, with the International Monetary Fund and the central banks, as well as possible long- and medium-term loans on the international market to be used to repay short-term loans.

The EEC Council and Commission have accepted the reasons given by the Minister for the Treasury which point out that the compulsory deposit of 50 percent of the value of imports was an absolute necessity. But they insist that these provisions be rapidly substituted by others, aimed at regulating overall demand. The need to make this substitution is undeniable; however, both we and our European associates must be well aware of the consequences. To take even gradual steps, in 1974, towards limiting the balance-of-payments deficit to 2,000 billion in 1975, forces us to bring stabilisation policies into effect immediately. The present, and possible future, economic situation on the international markets leads one to believe that the adjustment must be made more by slowing down imports than by increasing exports. After all, we cannot move towards payments equilibrium at a time when the international economic situation

is characterised by a fall in activity without domestic demand moving in the same direction.

In order to pursue during the present economic situation a policy aimed at the medium-term objective of limiting the payments deficit to 3,000 billion a year, it would be necessary, according to our calculations, to reduce domestic demand in real terms by between 4 and 5 percent compared to the 1973 level. The balance-of-payments developments of the first half of the year would indicate that a greater reduction in overall demand is required; however, since the initial effect of the reduction would create the right conditions for a further reduction and thus allow the adjustment to be made, it seems sufficient to limit the reduction to the extent mentioned. Were we to attempt to bring about his reduction through additional taxation and were the amount of this taxation limited to 2,000 billion, it would be necessary to integrate the effects of such action by resorting to a credit squeeze. The increase in bank loans should be about a quarter lower than originally estimated; the impact would be distributed between investments and consumption.

Were it suggested, instead, that we aim at limiting the balance-of-payments deficit within the above-mentioned figure and reduce the negative impact on investments, taxation would have to amount to 3,700 billion.

In both cases, the gross national product in real terms would be one or two percentage points below that of 1973.

Gentlemen: In the past, in these same rooms, we stated that it is not the duty of the Banca d'Italia to say in which ways taxes ought to be increased. But it is one of the Bank's tasks to make it known that, should one wish, as stated, to limit the balance-of-payments deficit by fiscal instruments, there is no avoiding an increase in personal taxation including those income brackets which cover a high percentage of the population. Over the short run a hefty rise in revenue from taxation is obtained only if the increase in taxation also affects these incomes. It is not enough to increase value-added tax on luxury goods; the increase should vary according to the goods and cover the whole range of consumer goods, with the resulting price increases being temporarily left aside when calculating the increment of the escalator clause. To believe, and to make others believe, that it is enough to increase the tax burden on the highest income brackets is equivalent to illuding oneself and others. Nor can we accept the argument that the taxation manoeuvre would be hampered by the present transition to a more modern tax system. What is done in other countries can be done in ours.

One does not defend the external solvency of Italy by pandering to the opinion of the majority. Defence of solvency, on which the continuity of the productive process depends, forces one to resort to monetary instruments, despite being aware of their negative effects on the system's capacity to produce income. If the Treasury deficit remains unchanged there must be a move towards new methods of financing it, which entail less monetary base creation. Firm in this belief, the Treasury has decided to offer the banks and the Banca d'Italia, in order to place them anew with both, ordinary bills at the deferred rate of 15.32 percent. Depending on the degree of success of the attempt to finance the Treasury deficit with non-monetary means, the smaller flow of monetary base to the banking system will limit the amount by which credit can expand. The quantitative limits on the expansion of credit to the public authorities are aimed at defending the percentage allocated to the enterprises; but these limits will be ineffective unless something is done quickly to limit the deficits. The adjustment of public service tariffs is one of the necessary conditions.

Despite attempts to reduce the impact on the enterprises, the credit squeeze aggravates their situation and, in some cases, leads them into financial difficulties. It causes the public authorities to carry out rescue operations and this helps to expand the public sector which gains access to credit with an arrogance based on the guarantee inherent in the right to coin money. The introduction of subsidised prices would add new difficulties to those mentioned: transferring to the government the losses resulting from such prices would face us again with the dilemma: to finance the larger deficit by increasing monetary base and thus put up with the effects on prices and on the balance of payments; to finance it with bank loans and thus have less available for the enterprises. On the other hand, while prices are rapidly increasing, the adjustment of subsidised prices is made through a contraction in supply in real terms followed by sudden price hikes. This is not a time to use expedients; but a time for serious decisions in the area of salaries and taxation. Recourse to monetary instruments to defend the country's solvency answers a dire necessity; to have to carry out such a maneuvre is an ungrateful task; the Banca d'Italia will do so resolutely.

ORDER FOR RECOGNITION OF SENATOR HUMPHREY VACATED

Mr. ROBERT C. BYRD. Mr. President, I have been asked to have the order that was entered for the recognition of Senator HUMPHREY vacated.

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

Mr. ROBERT C. BYRD. Mr. President, I yield back the time under my order.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 14832. An act to provide for a temporary increase in the public debt limit (Rept. No. 93-926); and

H.R. 14833. An act to extend the Renegotiation Act of 1951 for 18 months (Rept. No. 93-927).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

H. Con. Res. 454. Concurrent resolution to authorize the printing as a House document "Our Flag," and to provide for additional copies (Rept. No. 93-928); and

H. Con. Res. 455. Concurrent resolution to provide for the printing as a House document "Our American Government. What Is It? How Does It Work?" (Rept. No. 93-929).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

H. Con. Res. 201. Concurrent resolution to reprint the brochure entitled "How Our Laws Are Made" (Rept. No. 93-930).

By Mr. EAGLETON, from the Committee on Labor and Public Welfare, with amendments:

H.R. 11105. An act to amend title VII of the Older Americans Act relating to the nutrition program for the elderly to provide authorization of appropriations, and for other purposes (Rept. No. 93-932), together with supplemental views.

By Mr. LONG, from the Committee on Commerce, without amendment:

H.R. 8586. An act to authorize the foreign sale of the passenger vessel steamship *Independence* (Rept. No. 93-933), together with minority views.

REPORT OF SENATE SELECT COMMITTEE ON SMALL BUSINESS—REPORT OF A COMMITTEE (REPT. 93-931)

Mr. BIBLE. Mr. President, I submit the 24th annual report of the Select Committee on Small Business. I ask unanimous consent that the report be printed, together with illustrations.

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

Mr. BIBLE. This report highlights the fact that wholesale price index increases of 17 percent, the largest rise since 1947, plus labor shortages, higher unit costs for labor, raw materials, power, transportation and taxes were major components of the national economy's impact on the Nation's 8½ million small businesses in 1973.

In the 12 chapters of this report, we believe that the reaction of small businesses, representing 97½ percent of all business firms nationwide, to the ups and downs of our economy is especially illustrated. Small business is most sensitive to the economic barometer, gaining more than average in upswings and being hit first and hardest in downtowns. The economy in 1973 saw dramatic developments such as the wholesale price index moving sharply upward, consumer prices increasing by 9 percent, food and farm prices moving upward nearly 43 percent higher than the previous year, and fuel prices rising almost 48 percent.

The chapter dealing with mandatory Federal standards in the environmental, pollution, consumer health and safety areas sets forth the committee's efforts begun several years ago to enact Small Business Administration compliance loan authority, Public Law 93-237.

Another major 1973 concern of the committee involved the effect of the energy crisis on small businesses, actually a problem that preceded the October energy crisis because of the impact of foreign oil import quotas. One chapter deals with small independent gasoline retailers being harmed by the then applicable import allocations.

We believe that our committee's annual report fulfills our responsibilities to the Senate, to the Congress, and to the small business community. The areas of

general lending, disaster and government regulation relief, procurement and property disposal, SBA economic research, and other SBA activities are covered.

Other chapters deal with the impact of crime against small business, including cargo thievery and criminal redistribution, corporate aspects of giantism, secrecy and farming, small business taxation reform proposals, small business credit needs, helping small business to adjust to environmental-consumer initiatives, pharmaceutical competitive problems, the Federal paperwork burden, and transportation and distribution problems. One particular section highlights congressionally enacted public laws dealing with small businesses and their legislative histories.

We believe that this country's small businessman and woman, the backbone of Americanism at its best for its recognition of individual initiative, strength, perseverance and progress, should be recognized for their contributions to our country's well-being and that Government should remain alert to their special problems and their inestimable importance to our economy in keeping it healthy and strong.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

John C. Sawhill, of Maryland, to be Administrator of the Federal Energy Administration.

(The above nomination was reported with the recommendation that the nomination be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committe of the Senate.)

By Mr. LONG, from the Committee on Finance:

Francine Neff, of New Mexico, to be Treasurer of the United States;

Gerald L. Parsky, of the District of Columbia, to be a Deputy Under Secretary of the Treasury; and

Richard C. Wilbur, of Maryland, to be a judge of the U.S. Tax Court.

(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 committe of the Senate.

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive C, 93d Congress, 2d session, Protocols for the Extension of the International Wheat Trade Convention and the Food Aid Convention constituting the International Wheat Agreement, 1971, open for signature in Washington from April 2 through April 22, 1974 (Exec. No. 93-29).

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. HUGH SCOTT:

S. 3637. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations may be issued and renewed for terms of 5 years, and for other purposes. Referred to the Committee on Commerce.

S. 3638. A bill to amend the Act to incorporate Little League Baseball to provide that the league shall be open to girls as well as boys. Referred to the Committee on the Judiciary.

By Mr. MONDALE (for himself and Mr. RIBICOFF):

S. 3639. A bill to provide for the development and implementation of programs for youth camp safety. Referred to the Committee on Labor and Public Welfare.

By Mr. MOSS:

S. 3640. A bill to guarantee to the civilian employees of the executive branch of the United States the right to have a counsel or representative of his choice present during interrogations which may lead to disciplinary actions and to prevent unwarranted reports from employees concerning their private life. Referred to the Committee on Post Office and Civil Service.

By Mr. MONTOYA:

S. 3641. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 2-year period, and for other purposes. Referred to the Committee on Public Works.

By Mr. BROCK:

S. 3642. A bill to establish certain programs to promote innovation in transportation. Referred to the Committee on Commerce.

By Mr. JAVITS (for himself and Mr. TAFT):

S. 3643. A bill to amend the Rail Passenger Service Act of 1970 in order to expand rail passenger service. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 3644. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurse practitioners under medicare and medicaid; and

S. 3645. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 3646. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education. Referred to the Committee on Finance.

By Mr. FONG:

S. 3647. A bill to clarify existing authority for employment of White House Office and Executive Residence personnel, and employment of personnel by the President in emergencies involving the national security and defense, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 3648. A bill to amend the Urban Mass Transportation Act of 1964 to insure that transportation facilities built and rolling stock purchased with Federal funds are designed and constructed to be accessible to the physically handicapped and the elderly. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL:

S. 3649. A bill to amend the Social Security Act to establish a procedure for the prompt payment of social security benefits to individuals whose social security checks have been lost, stolen, or otherwise delayed, and to expedite hearings and determinations respecting claims for benefits under title II and XVIII of the act. Referred to the Committee on Finance.

By Mr. DOMENICI:

S. 3650. A bill to authorize the Secretary of Transportation to make certain highway improvements in order to more effectively carry out the purposes of the Navajo Indian Irrigation Project, New Mexico. Referred to the Committee on Public Works.

By Mr. BUCKLEY:

S.J. Res. 214. Joint resolution entitled "Declaration of 'German Day' ". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUGH SCOTT:

S. 3637. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations may be issued and renewed for terms of 5 years, and for other purposes. Referred to the Committee on Commerce.

Mr. HUGH SCOTT. Mr. President, the House has recently passed a Broadcasting License Renewal bill, H.R. 12993, after many months of debate. The bill is before Senator PASTORE's Communications Subcommittee for consideration. Hearings on the bill have been scheduled for June 18, 19 and 20.

During the 91st Congress, I was a cosponsor of Senator PASTORE's license renewal bill, S. 2004. I feel as strongly now as I did then that the Congress must clarify the license renewal problem. We must establish clear guidelines that will enable a licensee to know what type and quality of conduct is required in order to retain his broadcast license. At the same time, we must insure the public's rights and interests are protected.

I would like to congratulate the House for its diligent efforts in acting on renewal legislation. At one point the House subcommittee had more than 200 separate bills to study. With limitless possible approaches to this complicated issue, I believe the House settled upon a formula which may prove workable to both private and public interests. In rejecting a two-tier system for renewal, the House basically acknowledged the fact that a broadcaster should not be automatically entitled to renewal of the broadcasting license at the end of the term. The community of the licensee must receive a high standard of service from the broadcaster who makes use of the public airwaves. Therefore, before renewal of the license, the licensee should have to demonstrate more than merely adequate performance during the term of service.

I would like to comment on two parts of H.R. 12993 that I believe should be examined by the Senate. First, I will outline several problems that arise from the redefinition of the ascertainment process in H.R. 12993. And second, section 4 of H.R. 12993 which mandates "good faith negotiations" between licensees and community organizations should be reviewed more closely.

Under present FCC requirements, a licensee must "ascertain" the "needs" and "problems" of the "community" which the licensee serves. As a public trustee, the licensee must be responsive to those local needs and problems. H.R. 12993 has injected a new concept into the ascertainment procedure. Section 2 of the bill requires that the licensee must ascertain the "needs, views, and interests of the residents of their service areas for pur-

poses of their broadcast operations." Later the bill states the FCC must examine as a condition of renewal whether the broadcast operations have been "substantially responsive" to the needs, views, and interests of the residents of the service area.

This new language may alter the traditional ascertainment procedure. It may tend to move the emphasis from ascertaining the community's needs and problems to ascertaining the individual needs, views, and interests of specific individuals relating to all parts of the licensee's broadcasting operations. I believe it would be a mistake if the traditional concept were thrown out. Under the bill's mandate the Federal Communications Commission as a criterion for license renewal in reviewing licensee responsiveness would have to look at how a station had dealt with individual "needs, views, and interests of any particular resident of the community service area." This might mean individuals in a community could dictate what kind of programing, hours of service, promotional practices, good will, and employment rules a licensee should have. Too great a power might be placed in the hands of a few individuals or individual groups in a large community if this language became the law. The broadcast licensee has the responsibility now to serve the whole community as a public trustee. I believe it would be a bad approach to have programing and other decisions not made by the licensee.

In the light of these possible problems, I suggest that the language in H.R. 12993 be changed from "needs, views, and interests of the residents of their service areas for purposes of broadcast operations" to "needs and problems of their service areas." The appropriate language is reflected in the bill I will introduce today. Hopefully, the amendment would stave off undue individual influence over programing and broadcast operations. I want to make it clear, though, that I would nevertheless strongly support the standard of "substantially responsive" to needs and problems of the community which H.R. 12993 demanded from the licensee. It would be an unwarranted step to require only a "minimally responsive" standard for a broadcast licensee who is a public trustee of the airwaves.

The second part of H.R. 12993 that I would like to comment on is section 4. This section would add a subsection to section 309 of the Communications Act. In essence, it states that the Commission shall prescribe procedures that would encourage licensees of broadcast stations and individuals raising significant issues regarding the operations of such stations to conduct good faith negotiations on the issues during the licensee's term. The idea of the two groups meeting and discussing various ideas is excellent. However, a problem arises with the statutory language of "good faith negotiations." Clearly, since this would be a new requirement under the Communications Act, there is not established case law to interpret exactly what a "good faith negotiation" might be. For precedents one might be tempted to turn to the many labor law cases which discuss the concept of negotiation. Unfortunately, the employer-union analogy is not applicable to the broadcast licensee's case. We are not dealing with two parties involved in arm's-length negotiations over what actions each must perform if they are to work together harmoniously. A broadcast licensee often may not acquiesce to a demand in talks with individual over a licensee's actions in running a station because it would run counter to the public's best interest.

The House committee in dealing with the problem in its report tried to clarify the meaning of "good faith negotiations" vis-a-vis the broadcast licensee and individuals. The report states—

> In using the term "good faith negotiations" there is no intention to incorporate the body of law and administrative rulings which have developed in the field of labor law in connection with that concept.

Later the report explains the parties—

> Would be encouraged to meet in good will and confer in good faith, but it is not intended by this provision to require any licensee to agree to any particular concession or to reach agreement with any particular group.

Since the report clearly reflects the committee's desire not to have labor law concepts applied then it is logical to conform the statutory language so no misunderstanding will arise later. To accomplish this I would recommend that the word "negotiations" in section 4 of the bill be substituted with the word "discussions."

Today, I am introducing a bill which makes the amendments I have outlined to the House license renewal bill, H.R. 12993. I hope it will be of some help to Senator PASTORE's subcommittee as they review the various approaches to license renewal. I sincerely hope the Senate will be able to act quickly on some approach to license renewal so we may be able to see substantive license renewal become law this year.

By Mr. HUGH SCOTT:

S. 3638. A bill to amend the act to incorporate Little League Baseball to provide that the league shall be open to girls as well as boys. Referred to the Committee on the Judiciary.

MISS CASEY AT THE BAT

Mr. HUGH SCOTT. Mr. President, I am pleased today to introduce a bill to amend the Little League Baseball Act to allow girls to participate.

Yesterday Little League Baseball officially announced it would abandon its long-term efforts to maintain the male sanctity of this sport. Frankly I am delighted. Little League Baseball has stood for the development of citizenship and sportsmanship in its players and there is no reason why girls should be prevented from learning whatever Little League has to offer. This can only have beneficial results, building better understanding and communication between the sexes at an early age.

Little League Baseball began in Williamsport, Pa. and I am hopeful that Williamsport will maintain its tradition of being in the forefront in Little League by having the first girl player. The distinguished Congressman from Williamsport, Mr. SCHNEEBELI, has introduced a similar bill in the House. We are hopeful that the Congress will act quickly on this measure.

Mr. President, I ask unanimous consent that the text of my bill and an article from today's Washington Post be printed in the RECORD at the conclusion of my remarks.

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

S. 3638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of July 16, 1964, entitled "An Act to incorporate the Little League Baseball, Incorporated" (Public Law 88-378), is amended by striking out "boys" each place it appears and inserting in lieu thereof "boys and girls" and by striking out "citizenship, sportsmanship, and manhood" and inserting in lieu thereof "citizenship and sportsmanship".

[From the Washington Post, June 13, 1974]

LITTLE LEAGUE ADMITS GIRLS, EFFECTIVE NOW

WILLIAMSPORT, PA., June 12.—Little League Baseball Inc. today abandoned its years-long struggle to keep girls from playing on its teams.

Because of "the changing social climate," the organization said, it was ordering all franchisees to give girls an equal chance to make team rosters, effective today.

The league asked team operators to be "firm . . . and forthright" in executing the new policy. It was a dramatic turnabout from the old attitude, which had led the league to lift franchises from teams that admitted girls and to fight tooth and nail in the courts to keep the game for boys only.

The board said it has petitioned the House Judiciary Committee to introduce appropriate legislation to amend the federal charter under which Little League has operated since 1964.

The league cautioned that it was only opening enrollment in its program to girls, not guaranteeing that girls would be placed on teams.

"Whether they play or not would depend on managers and coaches of the individual teams," a league statement said. "The girls would have to prove equal competency in baseball skills, physical endowments and other attributes scaled as a basis for team selection."

Peter J. McGovern, board chairman and chief executive offier said, "It is the unanimous view of the board and trusteeship that acceptance and screening of young girls . . . should be adjudged by the local league organization and not by the international body."

McGovern added that this "should be done in good faith and without prejudice."

McGovern urged settlement of local squabbles by civil rights or human relations hearings.

"Any action in this regard should be responded to with firm conviction and forthright statements that Little League does not discriminate and has no feelings of ill will toward any sex, race or creed," he said.

The Little League, which operates 9,100 leagues for 2.5 million youngsters in 31 nations, has been challenged in a number of American courts on its all-male policy.

"In reaching a decision on an issue of landmark significance, the board has taken the position that it would be imprudent for an organization as large and universally respected as . . . Little League Baseball to allow itself to become embroiled in a public controversy," McGovern's statement said.

He said the 35-year-old Little League also would retain its separate and optional pro-

gram for girls of Little League age. The Little League now has a program for some 50,000 girls in the United States.

The Little League age extends from 8 to 12.

By Mr. MONDALE (for himself and Mr. RIBICOFF):

S. 3639. A bill to provide for the development and implementation of programs for youth camp safety. Referred to the Committee on Labor and Public Welfare.

Mr. MONDALE. Mr. President, I am pleased to introduce today, for myself and Mr. RIBICOFF, the Children and Youth Camp Safety Act of 1974. This bill is identical to one previously introduced in the House by Representative DOMINICK V. DANIELS.

As chairman of the Senate Subcommittee on Children and Youth, I have been troubled by reports of inadequate safety and health standards in some of the camps to which we entrust our children. No reliable, comprehensive statistics are available on the extent of accidents and illnesses incurred by youngsters while they are attending camp. But the most recent figures show that in the summer of 1973, 25 children died; 1,448 were injured, and 1,223 suffered serious illnesses while at camp. Many of us have seen the disturbing and dramatic press accounts of some of these incidents.

Two years ago, the Congress defeated a legislative proposal to establish Federal standards for camp safety. Instead, Congress directed the Department of Health, Education, and Welfare to conduct a study to determine the extent of "preventable accidents and illnesses" occurring in camps, the effectiveness of State and local camp safety laws, and the need for Federal legislation.

Now that this study has been completed, we can no longer delay definitive congressional action on this problem. I am introducing this bill today with the intention of holding hearings on it and on Senator RIBICOFF's Youth Camp Safety Act before my Subcommittee on Children and Youth. By its approval of Mr. RIBICOFF's Youth Camp Safety Act in 1971, the Senate has already indicated its interest in and commitment to improving youth camp safety in this country. The purpose of my subcommittee's investigations will be to develop the most effective measure for accomplishing that goal.

The subcommittee has scheduled a hearing on these bills at 10 a.m. on Monday, July 15. Parties who may wish to testify are requested to contact the subcommittee at 225–8706.

I ask unanimous consent that a number of relevant documents be printed in the RECORD at this time. They are a legislative history of camp safety legislation, prepared by Library of Congress; two fine articles on the subject which have appeared in the Washington Post, "Remembering Children," from Potomac magazine, and "Protecting Children at Summer Camp," an editorial; and the text of the Children and Youth Camp Safety Act of 1974.

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

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE,
Washington, D.C., May 9, 1974.

To: Senate Children and Youth Subcommittee.
From: Education and Public Welfare Division.
Subject: Youth camp safety.

In response to your request, the following is a brief history of legislative activity related to youth camp safety since the 90th Congress.

Since 1967, several bills have been introduced in each Congress to provide for some Federal role in developing and maintaining youth camp safety standards. The bills introduced generally provide for Federal leadership and grants to the States for developing and implementing State programs for youth camp safety standards or to provide for a study of the extent and enforcement of State laws and regulations governing the operation of youth camps. In the 90th Congress, two days of hearings were held on such bills before the Select Subcommittee on Education of the House Committee on Education and Labor, but no bill was reported.

In the 91st Congress, hearings were held before the Select Subcommittee on Labor of the same committee, and the full committee reported out H.R. 763 which authorized $150,000 for a study of the extent and enforcement of State laws and regulations governing the operation of youth camps. The bill failed to pass the House by a vote of 151–152.

In the 92nd Congress, the Select Labor Subcommittee again held hearings on youth camp safety bills but no bill was reported. Nevertheless, the Senate, on August 6, 1971, passed the Education Amendments of 1971 (S. 659) which included a floor amendment (The "Youth Camp Safety Act") by Mr. Ribicoff, adopted by voice vote, authorizing up to $2.5 million per year for 50 percent grants to States for developing and administrating approved (by the Secretary of HEW) State programs for youth camp safety standards. The amendment authorized HEW to draw up Federal standards for youth camp safety and allow camps certified by the States as being in compliance with those minimum standards to advertise that fact. An advisory council on youth camp safety was created to advise and consult on policy matters relating to youth camp safety and finally, appropriations of $3 million were authorized for each of six successive fiscal years, beginning with FY 72.

In passing their version of the Education Amendments of 1971 (H.R. 7248) on November 4, 1971, the House voted 184–166 to adopt a floor amendment by Mr. Pickle authorizing $300,000 for an HEW study of youth camp safety which would include a discussion of (a) the extent of preventable accidents and illnesses occurring in youth camps, (b) the effectiveness of their enforcement, and (c) the need for Federal laws in this field. The results of the study were to be reported to Congress before January 1, 1973.

The Conference committee agreed to the House version (S. Rept. 92–798) but amended the provision to require HEW's report by March 1, 1973. Both Houses adopted the Conference report and S. 659 (by this time known as the Education Amendments of 1972) became Public Law 92–318 on June 23, 1972.

Thus far in the 93rd Congress, there have been several bills introduced to develop programs for youth camp safety. In general, these bills provide for the development of Federal standards for youth camp safety and grants to States to implement programs that comply with those standards. In some bills, the Secretary of HEW is authorized to conduct inspections and fines are proposed for noncompliance by camp operators. Although no legislative action has yet been taken in this Congress, the House Select Subcommittee on Labor is scheduled to hold hearings in the very near future. In a related matter, the HEW report on youth camp safety required by P.L. 92–318 was released on April 29, 1974, and its major findings and recommendations are enclosed.

If I can be of further assistance, please let me know.

TOM WANDER.

[From Potomac magazine, Feb. 4, 1973]

REMEMBERING CHILDREN

(By Colman McCarthy)

What is worse for parents than the death of a child? Only this—when the death is accidental, needless and could have been avoided. No parent, whether a Vietnamese mother whose child was killed by American bombing or an American father whose son was killed because of corporate negligence, ever fully recovers. Interior peace, the most valuable kind, is forever gone. One reaction to losing a child needlessly is to push the event from the mind, send it trackless into the inner space of memory where it will remain forever but at least be traveling in a random orbit away from the soul. Bury the dead and let life go on. Another reaction—more rare, more heroic—is to keep the tragedy fresh and current by alerting others that the conditions by which your child was killed still exist. Other children may die needlessly, perhaps yours. This is the vocation of the lantern—lighting it, going out into the darkness of unconcern and apathy, trying to focus on a major national tragedy but illuminating only small corners, not whole rooms. Who listens? Who cares?

A letter came in November 1971 from a Westport, Connecticut, furniture salesman named Mitch Kurman. Handwritten, in sprawling script, he asked if I would consider writing an editorial for The Washington Post supporting legislation for a youth summer-camp-safety bill. The Senate, Kurman's letter explained, had already passed a bill with a unanimous vote of 53–0. The House would soon be debating similar legislation, choosing between a bill that was much weaker. Kurman's letter ended by saying that a Post editorial on summer-camp safety would be timely and possibly helpful. Letters asking for editorial support are common but usually they come from a politician—senator or congressman—who has sponsored a particular bill, from a trade association whose interest is totally vested, sometimes from a lobbyist looking out for a client. Here's our bandwagon, the letters commonly say, just hop on, we're going places. Kurman's letter had to be treated with a certain amount of cautious skepticism, but it was clearly different from most of the others. It was from a private citizen, on plain stationery, and about legislation that obviously could be of no financial or political benefit to him.

A few days later, after researching the history of summer-camp legislation, speaking with four or five Senate and House staff people, and talking with my editor, the Post ran an editorial. It supported the bill of a New Jersey Democrat, Dominick Daniels, that called for strong safety standards for summer youth camps. These minimum federal standards could then be administered by the states; the latter would receive up to 80 per cent funding from the federal government to administer them. The Daniels bill, presented as a new title of the Higher Education Act, was an effective approach because it provided incentives to let states run their own programs while insuring that nationwide standards would be met. Thus, a camp in one state would have the same minimum standards as a camp a mile across a state line or a camp 2,000 miles across the country.

Many children are sent to safe, well-run camps where supervision is firm and accident prevention is taken seriously. This is not true for all children, however; many are

at camps where counselors have little knowledge of dangerous waters or trails, where safety equipment is not provided, where safety and health inspections are rare or nonexistent. The statistical breakdown between safe and unsafe camps is not known. A possible guide is that out of 11,000 camps in the country, only 3,500 are accredited by the American Camping Association, and even then the A.C.A.'s inspections are not strict. Only twenty-six states have legislation concerning sanitation. About fifteen have safety regulations that would be meaningful. Only three or four make reference to personnel. Over the years, Congress had passed all kinds of bills to protect alligators, coyotes, birds, and bobcats but it was not yet concerned about the 250,000 children annually disabled from camp accidents. A week later, the House debated the youth camp-safety bills. It rejected the Daniels proposal and in its place approved an amendment offered by Representative J. J. (Jake) Pickle, a Texas Democrat. This called for a survey of the situation. Three Congresses—the 90th, 91st and 92nd—had held hearings on summer-camp safety, taking testimony from dozens of informed witnesses; but Pickle thought more study was needed and, incredibly, the House agreed. Taking a survey is a favorite Congressional stall, a manana maneuver that delays and confuses.

For the supporters of the Daniels proposal, the backing of another defeated bill meant little. We took the stand we thought was right, but in the end the defeat of the Daniels bill was only another mark in the won-lost columns. In the weeks after, though, I kept wondering about Mitch Kurman. Was the defeat only a passing event for him? Did he go on, as we did, and take up other issues, shelving camp safety until it would come up in a future Congress? The questions bothered me, so I phoned Kurman and asked if I could visit him in Westport. He seemed surprised—"I usually have to go to the press, instead of the press coming to me"—but we arranged a date convenient to both of us.

Mitch Kurman, 48, the grandson of Jewish immigrants and the father of two daughters, is a furniture-manufacturers' representative. He knows what the factories are making and what the stores are selling and puts himself in the middle. The work takes Kurman throughout New England and down the East Coast. Self-employed, his office is in his basement; both his wife, Betty, and his father help on the paperwork. Although Westport has the image of a fashionable and smart-set community, the Kurmans live in an unsplashy neighborhood, a few block off the Merritt Parkway. Kurman is short, gentle-speaking, and totally gracious. His life since August 5, 1965, has been one of lonely non-adjustment, a vigilance that has tried to disturb the peace that calmly allows 250,000 children to be injured every year and large numbers killed.*

"My son David was drowned in a canoeing accident in Maine that August," said Kurman, seated on the living room sofa. "I am not a wealthy man but I am not pleading poverty either. I guess you might say I am a man of possibly better-than-average means. I did not want David growing up in a goldfish bowl of Westport. I thought it would be good for him to get around. The boy loved to read. He was a fine student and I thought it would be good for him to go off to a camp and learn something about the outdoors. The camp we sent him to was in New York State, run by a YMCA in Rochester. The camp sent us a brochure which I think would satisfy anyone had they looked at it and studied it. I certainly had the utmost confidence in the boy's ability to swim and I certainly did not expect anything like a drowning. I expected adventure. I expected fun. I expected good, hard work, and I expected him to be paddling, which is what I wanted and which is why I sent him there. I did not send him on any expeditionary situation, something to endanger his life."

On August 5, the YMCA group made its way to the west branch of the Penobscot River near Millinocket in Maine. The campers were going down a section of the river called Passamaquoddy Falls when a number of the canoes were overturned by the rough waters and jutting rocks. The YMCA counselor had not supplied the boys with life jackets. "When David was killed," Kurman said, "it took a three-and-a-half-day search to find the boy's body. The waters the group tried to pass through were a raging hell-hole that no man in his right mind would ever attempt. I graduated from Cornell as a biologist and if I was ever told to investigate that water, I would probably sit on a riverbank and write out a report. I would not go into that water. When I went up to look at the waters myself, I learned that the Great Northern Paper Company has a large paper mill in the area. They shoot their cords of pulpwood logs to the mill downriver and in this stretch where David was killed, the logs actually tumble end over end."

Kurman speaks emotionally about the negligence of the YMCA and it is hard not to suspect that perhaps he exaggerates; after all, it is an unsettling subject. On checking the record, however, Kurman, if anything, understates the situation. In a trial held in district court in New York in May 1971—the case took six years to reach a judge—Kurman won a settlement of $30,000 from the insurance company of the YMCA in Rochester. Among those testifying were the chief of police in Millinocket, a deputy sheriff, and two of the boys on the trip. The police chief testified that the canoes used by the YMCA were unsuitable for the rivers because they had keels, good only for placid waters, not rapids. The sheriff testified that the YMCA counselors, intent on making time, would not participate in a search for the Kurman boy after the canoe overturned. Instead, the paper company closed down its operations and sent out special search parties to find the boy. In his suit against the YMCA, Kurman charged that the leaders of the trip were inexperienced, had selected waters which were dangerous for canoeing, had no life jackets for the boys, and no ropes or snubbing poles to guide the canoes away from the rocks. The defense called no witnesses. Kurman recalls the irony of the phone call from the YMCA following the accident. "They told me—bluntly and coldly right over the phone—that David drowned because he disobeyed instructions."

Shortly after the accident, Kurman made the first of what would, in six years, be hundreds of journeys to get legislation for camp safety. "Maybe I just should have forgotten about the whole thing," he said. "People tell me I'm a little crazy for keeping with this tragedy all these years, since nineteen sixty-five, with no let up. They mean well and they tell me to relax, forget about the past. They ask me how I don't go out of my mind to fight this. The facts are the opposite, though. I'd lose my mind if I knew these conditions existed and didn't do anything. A friend of mine, a kind guy, says maybe a psychiatrist could help me forget about David and about camp safety. He means well but isn't it strange? I don't need a psychiatrist. I'm normal. My friend needs the help. He looks away from the reality."

The first trip after the accident that Kurman made was to the office of New York Governor Nelson Rockefeller. "I was naive. I thought if you brought this to the attention of the officials they would do something, they would tighten up on the situation so it wouldn't happen again. I certainly did not expect to see my own boy alive again, but I felt why should this happen to someone else's child? I brought it to their attention and I asked them if they could tighten up to prevent similar tragedies that might happen with other children sent to camps in New York State. I was told, 'Well what do you expect us to do?' I said, 'There must be some legislation. There's a law for spitting on the sidewalk. There ought to be a law for taking care of the camps for children.' They told me, the people in Rockefeller's office, that the camps in New York have to comply with the sanitary code. I asked what that meant and they said that it simply means safe food and safe water. I asked, 'What about personnel?' and I was told they were not concerned with personnel. So I asked how are you going to determine if a camp is safe when I want to send a child to one? I was told, 'They print brochures, that's how you tell.' I was amazed that they said that, because the next summer after David was killed, the camp issued the same brochure it had sent me a year earlier."

The experience with Rockefeller's people jolted Kurman. Like most citizens, he believed that once you told elected officials that something was wrong, they would change it. Moreover, this particular issue involved kids—keeping them safe. Who would not be for that? Kurman was soon to find out.

Because his furniture work took him to about a dozen state capitals, Kurman was able to get to the politicians. He also went to the newspapers, television and radio stations to get their support. (Kurman has a file weighing more than 100 pounds, filled with clippings from the New England and national press.) The media rallied behind him, with a few exceptions. As for the politicians, they also were for camp safety, at least while Kurman sat before them explaining the problem. "Sure they were," he said. "Here I am in their office, telling them about my boy who drowned, what else can they say?" Yet saying and doing are not the same, and Kurman discovered in New York what was to become a long agony of consensus solutions. He found an assemblyman in Albany who sponsored a law calling for life preservers while in pleasure boats. "It was a mild bill," said Kurman, "just requiring that people strap up in a life preserver when they took to the water. It passed the assembly a hundred forty-seven to three. But on its final reading the bill was starred. This is a technical term meaning that the legislation is temporarily dead until the star is removed. I begged the majority leader of the assembly to remove the star—because he had the power to do so—but he declined. So the bill died.

"I kept at it. In the next session, I spent at least one hundred hours lobbying for the bill—personal visits to Albany, to Niagara Falls to see a state senator, to Utica to see an assemblyman, to Astoria, Queens, to see another assemblyman. This time the bill passed, Rockefeller signed it, and I said to myself, well, the system will work if you just keep at it. But I was astonished to find that in the final version of the bill an exemption was made—for private ponds and lakes, exactly the waters where most of the summer camps are located. So there was really no law at all, as far as I could see. In fact, the law that was passed was worse than no law at all, because now parents would be fooled and think their kids were protected at camp." Kurman has never been able to find out who slipped the exemption through.

*Statistics on camp fatalities are hard to come by. In 1965, the Mutual Security Life Insurance Company of Fort Wayne, Indiana, made a study of 3.5 million campers, mostly children in organized camps. Between the years 1962 and 1964, 88 death claims were submitted.

When he went to work on the Connecticut legislature, known as a fickle group, Kurman found that the editorial support of the state's newspapers—from the small and conservative Greenwich Times to the large Hartford Courant—had already alerted the politicians. Grimly, something else also aided the chances for a life-preserver law. While the bill was being debated in committee, five teen-age boys in Fairfield County took a small sailboat into Long Island Sound in rough waters. Only two life jackets were on board. The boat capsized, with three boys drowning and two surviving. The latter had on the life jackets. Although the politicians, moved by this tragedy, which was felt throughout the state, quickly passed the law, Kurman noticed there was still pressure to weaken it. Several groups, representing camp operators, were involved. Kurman wrote to the state's Department of Agriculture and Natural Resources in Hartford and found a sympathetic official in Bernard W. Chalecki, director of the Boating Commission. Chalecki replied that when the law went into effect many requests were received from the Boy Scout camps asking for exemptions. The Boy Scouts said they could not afford to buy a sufficient number of life-savings devices, so the law should not apply to them. The Boating Commission never granted the exemptions. An irony of the Boy Scout request is an article from a Boy Scout magazine titled "Trip Fun with Safety." "Life vests or jackets should be standard equipment for every canoe trip—one for every person in the party. These life vests are to be put on and worn by every person on all occasions when conditions of weather or water indicate there is any possibility of danger of upset or swamping from wind, waves, rapids or other causes. They are to be put on before the danger area or time is reached and kept on until after the time of hazard has passed . . ."

Kurman's eye easily saw the sparks of contradiction flying off this flinty opposition. "There are the Boy Scouts—holy, pure and all-American, preaching safety for the public to behold but all the while trying to get around the law in quiet." The Boy Scout evasiveness has not been confined to Connecticut. They have been at work in Texas also. State Senator Lane Denton from Waco wrote to Kurman in March 1971 that a youth camp-safety bill had been introduced by him in the Texas legislature and sent to a subcommittee. Even at that early stage, Denton said, "the main opposition was from the Boy Scouts and the private camp operators." With wit, Denton added that since these two groups were opposed, "this type of legislation is definitely needed." Four months later, Denton wrote to Kurman with the bleak news that his bill had died in subcommittee. "The Boy Scouts led the fight against the bill," Denton said. It would be eighteen months before the Texas legislature would again meet.

At the same time Kurman was going after the state politicians, he was also coming to Washington. A national bill was his goal. In six years, he believes he has seen every senator (or every senator's legislative assistant) and nearly all the representatives. One of those on the Hill visited by Kurman in the early days and who has stayed with him since is Dan Krivit, chief counsel for the House Select Subcommittee on Labor. His subcommittee was the pad from which a youth camp-safety bill would be launched, if at all. "I remember when Kurman first came around," Krivit recalled. "He was emotional. He did all the talking. He made demands. He damned congressmen as do-nothing politicians. God, he came on strong. But I have a rule—that you have to distinguish between the guy who has facts and the guy who has bluster. You can tell soon enough. We see a lot of special-interest people who are mostly big talk with small arguments. The appeal of Kurman was that he had a command of the facts. I was able to check them out pretty quickly and see that he was right."

Another whom Kurman saw in his early trips to Congress was Representative Dominick Daniels of New Jersey. A kindly man who works hard but one of the anonymous herd of low-profile congressmen. Daniels took an interest in Kurman and agreed to hold hearings. In July 1968, he told his colleagues on the opening day of testimony: "This morning we take the first major step forward to provide minimum federal safety standards for summer camps across the nation. We must identify the nature and magnitude of such problems as may exist and consider whether state and local regulations are adequate to deal with them. If we determine during the course of these hearings that a significant problem exists, I pledge that I will do everything in my power to ameliorate the situation. Summer camps deal in what is perhaps the most precious commodity we have—the lives of our youngsters."

Although the hearings were a success and glowing statements of support were heard for the Daniels bill, nothing ever came of them in the way of legislation. Dan Krivit said that "we couldn't muster enough enthusiasm." Kurman was dismayed that Congress did not act, particularly when the American Camping Association—which is not a militant group—endorsed the Daniels proposals. Although Kurman had been around politicians enough by now to know that most of them were banal lightweights, he still had faith that change would come. At the hearing, he finished his testimony by saying: "I want to thank you, Chairman Daniels. I think it is a wonderful thing when an ordinary citizen of this country can go before the representatives that we have and get a hearing such as I have had. It certainly does far, far more for my feelings toward this wonderful country we live in than anything I have ever read in textbooks or anything else, and I want to thank you very much." Dan Krivit, who was present for these words, said that some of the politicians were touched by Kurman's sincerity. "He sounded almost corny, even a little pious. But nobody in the room moved a muscle or shuffled a paper when he spoke."

Daniels and Krivit, as disappointed as Kurman that nothing resulted from the hearings in the 90th Congress, immediately called witnesses for a new set of hearings early in the first session of the 91st Congress. By now Kurman was becoming a wise pool player, alert to all the political angles between which legislation continually caroms. He became a regular visitor to Washington, going up and down the halls of the Cannon office building, the Rayburn building, the new Senate office building and the old Senate office building, spreading out his facts to the politicians and their aides. He found senators more congenial. "They are in for six years, so they are free from the pressure the representative gets. Their constituency is wider also, so they don't have to fear the special-interest groups."

In the House, Kurman was often amazed to find friendly receptions from men and women who "were on the wrong side of every issue I cared about except youth and camp safety." On this, they wanted a strong law, and they said so. Following hearings, the best bill to get out of the committee was one calling for a survey. An authorization of $175,000 was requested. This was a weak bill, much flabbier than the Ribicoff bill which was now making its way through the Senate and had, in fact, been voted in the Congress before. Kurman was bitter when the House voted down even the weak survey bill, 152–151.

As though it was decided that a poisonous pesticide should be sprayed once and for all at this bothersome gnat from Westport, H. R. Gross, an Iowa Republican known for his passion for saving the taxpayers' money (though not on defense spending), spoke up. A survey for $175,000? asked Gross. What folly. Gross warned that if the House did not watch out, it would soon be sending federal "wet nurses" to look out for the kids in camp. A columnist for the Washington Star also checked in with his wit. "Maybe someone ought to make another approach" rather than the survey, wrote John McKelway. "Why not let the National Institutes of Health see if it can find a cure for homesickness?" Turning serious, McKelway said that if it wasn't for "that small item of $175,000" it would "probably be safe to say this piece of legislation is the most innocuous thing to have faced the 91st Congress." Kurman had become accustomed by now to the hidden opposition of the Boy Scouts and the private-camp operators but being laughed at was devastating.

Although the public argument against federal legislation for camp safety was that the states could and should do the job themselves, Kurman believed another reason existed also—money. "Let's face it," he said, "safety costs money. Spending money for things like life vests, sturdy boats, qualified personnel, well, it means you have an expense you might otherwise cut corners on. Running a camp is a business. There's nothing wrong with that. Profits aren't evil. They only become bad when you risk lives for the sake of making more money."

Instead of being depressed by the brutal defeat he had taken, Kurman became even more dogged. He kept in close contact with Dan Krivit and Dominick Daniels. Both advised Kurman that not much more could be done in the 91st Congress; let things ride. The only source of encouragement was in two pieces of legislation that were now on the books: the Coal Mine Health and Safety Act and the Occupational Health and Safety Act. Both required that standards be set and enforced by the federal government. If Congress could approve of this kind of "federal interference" that would affect industries with earnings in the tens of billions, why couldn't a camp-safety bill—involving only one industry—be passed also? Even more compelling was another fact: if the employees of the camps were now covered by a federal safety law why not the children? Yet even this encouragement had a bleak side to it. In 1969, Congress had passed a safety-and-health law for coal miners all right, but it had been considering the law since 1951—eighteen years and thousands of dead workers before. Camp safety had only been an issue for six years and the total number of corpses was still only in the hundreds. Have a little patience, Mr. Kurman.

Going to the post for the third time, Daniels held hearings in July 1971. The same facts of tragedy and negligence came out, facts that by now were trotted out like tired dray horses. This time, the House was faced with a choice of five bills, while in the Senate the Ribicoff bill still stood. The scene was quiet until November. Kurman again came to Washington. The pressure was on because it was known that the House would soon debate the camp-safety bills as an amendment to the Higher Education Act. I spoke with Kurman and was amazed at his fullness of hope, that he still talked as if he had discovered the outrage only that morning. "I have faith in Congress," he said. "Do you know that there are a lot of them I've persuaded since the last session?" He ran off a few names, less known to most Americans than the second-string line-ups of baseball's expansion teams. Yet they were people who had power over our lives. On November 4, the House, working well into the evening, argued camp safety, now known as Title 19 of the Higher Education Act. Kurman had allies who knew their facts and argued forcefully.

Rep. John Dent of Pennsylvania: "Does anybody in this place really believe that these camps in America are all safe and quiet little havens? Let me tell you something. The brochures they have in most instances on these camps are so antiquated that they do not even cover or resemble what the camp looks like when the children are sent there by their parents. Anybody can be hired. No one needs to pass any kind of examination or test of any kind. There is not even a simple qualification or requirement as to their ability or training or anything. A camp is an open place with absolutely no requirements as to who can run them and who cannot run them or who shall be allowed to run them. This is the only place in the whole activity of youth in the entire country where there is not one single federal regulation as to even minimum requirements for safety."

Another voice was from a New York Republican, Peter Peyser. Referring to the arguments calling for inaction or delay, he said, "I must say I am a little amazed by some of the things I am hearing said about camp safety here. There is a problem of camp safety but people seem to be saying, 'We do not have any statistics dealing with safety in camps.' Statistics are very simple. I have a list right here of thirty-five children killed this past summer, and this is one section of the country. They were all killed in camps; killed in accidents, for the most part, which never should have happened. There were six drownings with no life-guards on duty. Six were killed in a truck with a teen-age girl driving on the highway, who had no proper license to drive a group of children, and there were no regulations in the camp as to who would or could drive. We have lists from California, New Hampshire, Connecticut, Massachusetts, Minnesota, Oklahoma—I can name all these states with deaths in this year. There were thousands of accidents."

However persuasive these arguments were, Jake Pickle of Austin, Texas, would have none of it. His opposition remained firm. For one thing, "as an Eagle Scout, I think I know what safety means in any camp . . . Let us not get trapped into supporting the Daniels bill . . . Support my substitute, and then we can have a study and have some facts to determine what to do." Ironically Pickle was now calling for the same survey idea which two years earlier had been voted down by the House and mocked by the Washington Star columnist. "This is progress," Kurman said. "We will eventually have a camp safety law. Everyone knows this, so the people like Pickle try to poke along in slow motion because they know they can't stop it. I can't give up. I have to keep snapping at them."

The position of Eagle Scout Pickle was based less on the rightness or wrongness of the issue than on what his constituents demanded. Pickle said on the House floor that he had numerous wires from "a dozen or more major camps in my district strongly opposing this measure (the Daniels bill), saying that the states ought to have the right to enforce any such standards."

Coach Darrell Royal, for example, who ran Camp Champion when Le wasn't on the gridiron, had wired Pickle. So did the Dallas YMCA "representing many of the YMCAs of Texas."

Pickle did not come on as a Neanderthal who wanted the law of the cave to prevail. Instead, he pictured himself as one who truly cared about the children. "Everyone," he said, "is in favor of camp safety. There is not a man or woman in this chamber who would vote against saving the lives of children. But Mr. Chairman, we must mix in some judgment with our fervor. I think the intent of the committee's legislation is good and I support that intent. However, I think we may be premature in our action today. This legislation would create a new bureaucracy with strong regulations, inspections, and enforcement through fines and injunctions. Mr. Chairman, I will readily admit and even support legislation which might save the life of even one child away at camp. I know in my own mind that there are camps in this country which may need policing . . . I do not think we know enough about the problems of camp safety. I am not certain in my own mind if the bill before us even goes to the heart of the matter. And before we jump with the solution, I think we would be wise first to survey the needs. I think we should first have a comprehensive study to seek out the basics, like how many camps exist, who runs them, what kind of safety training exists for their personnel, what is the true accident record, and all the pertinent questions which must be asked."

H. R. Gross, Mr. Money Saver, was not heard this time around on the idea of the survey, even though the cost was now up to $300,000. As a final irony, Gross joined Jake Pickle and 182 others in voting for the survey amendment of Pickle and against the standards bill of Daniels. Only 166 supported the latter. The survey amendment joined the Ribicoff bill in the Senate and went into conference committee—a parliamentary device where a final bill is drawn up in closed sessions, reconciling differences between House and Senate versions. The Ribicoff bill, while superior to the survey, was still basically weak because it only allowed states to adopt HEW standards, rather than requiring them to do so. Thus, if Texas or any state doesn't want to get in line, it doesn't have to. Indeed, there is small chance they will. Oddly, one Texas congressman who has been friendly to Kurman and who voted against the Pickle survey and for the Daniels bill, was Bob Eckhardt. "I was under a great deal of pressure to oppose the legislation (the Daniels bill) and received many letters from camp owners and directors from all over the Southwest," Eckhardt wrote Kurman. "I cannot tell you how much I admire your fine work. It is most unfortunate that it takes such personal tragedies to wake the country up. I sometimes fear, however, that the power of the special-interest lobby groups to defeat pro-people programs is limitless."

I was with Mitch and Betty Kurman in Westport in mid-spring 1972 when the conference committee was wrangling over the Pickle and Ribicoff bills. Kurman was in high spirits, at the prospect that the committee would go along with the Ribicoff approach. "I'm sure they will," he said with excitement. "They know what a long fight this has been. They know what kind of action is needed, and even then the Ribicoff approach is a mild one. I've spoken to every man and woman on the committee at least once, some of them two or three times. They know me." Shortly before lunch, a phone call came from Washington. Kurman took it, and five minutes later came back to the living room, stooped over, silent, slumping into the sofa. "They settled on the Pickle survey bill," he said.

He and Betty were silent for a few minutes, each with their own feelings of sadness. But they had a rage too. "We have a terrific system," Kurman said, echoing his lofty statement in the House hearings five years before. "But money corrupts. Everybody thinks politicians have power but when you talk to politicians, they say 'What can I do? I'm only one congressman, I'm helpless too.' You hear that from senators. Imagine, a United States senator saying he's helpless. I remember talking to Hubert Humphrey—he told me there are 'powerful forces' at work against the camp-safety bill. But when I asked him specifically who these powerful forces were, Humphrey had nothing to say. For the first time, he was speechless. It comes down to this. For every profitable industry you have a lobby to protect and a group of politicians to protect the lobby. It's like the new double-protection door locks that are selling so big to keep the thieves out. But the lobbying-political complex keeps the thieves in so that the public never sees them. But they steal and rob from us all the same. They stole our son."

Most of the political defeats recorded in American life are suffered by persons holding or seeking office and who, on election day, are rejected by the voters. But politicians are not the only ones who are struck down by political defeat. Common citizens, obscure, self-supporting, and in debt to nothing but a conscience, are rejected also. Newspapers and news shows are filled with reports on primary campaigns, delegate counts, the pointless polls and the useless speeches, so only occasionally is anyone aware that a struggle involving a lone citizen is going on. The defeat suffered by Mitch and Betty Kurman was filled with frustration, anguish, and gloom, yet personally the Kurmans were not beaten; they held or sought no office and they cared nothing about political parties. In reality, the defeat was one for the American political system, for the goal of participatory democracy that glowing speakers yak about to college students at graduation time. The story of Mitch Kurman suggests that the excitement of electing a new president may be the smelling salts by which the public apathy is revived but it will barely disturb the near-dead feeling of the wealthy industries supported by forceful lobbies and the Jake Pickles.

I continue to get calls and letters from Kurman, and I write to him. Mostly he sends along clippings of camping accidents—six kids killed here because of bald tires on the camp truck that crashed, two drowned there because of no life jackets; one kid sexually molested by a deranged camp counselor who was hired on without background checking, two children killed when they slipped on a rocky ledge that a counselor led them on against the advice of a park ranger. Each story is tragic, and I wonder how Kurman can absorb it all. Each letter and call ends on the same note, that Kurman had recently been to see another congressman and persuaded him about the need for a camp-safety law.

PROTECTING CHILDREN AT SUMMER CAMP

With considerable persistence, not to mention faith in his fellow legislators, Rep. Dominick V. Daniels (D-N.J.) is holding still another round of hearings on the proposed Youth Camp Safety Act. His efforts go back to 1966. Rep. Daniels stated recently: "In the last three Congresses, I have held hearings on youth camp safety with the aim to bring an end to the tragic waste of young lives occurring each summer because of the dearth of health and safety standards for youth camps. There have been many horror stories brought to my attention."

Some 8 million youngsters attend summer camps. The most recent statistics—from the Center for Disease Control in Atlanta—reveal that in the summer of 1973 25 deaths occurred, with 1,448 injuries and 1,223 serious illnesses. But these figures were mostly based on voluntary questionnaires to camps (with less than half in the 7,800 sample reporting) and news clippings. Such a spotty way of gathering information is not only indicative of the lack of concern about summer camp safety but is also part of an ongoing pattern. HEW itself was required by Congress to study the issue—an evasive solution reached by a House-Senate conference committee—but could come up with only a 16-page report issued a year late. Even then, Rep. Peter Peyser (R-N.Y.), a cosponsor of the House bill, called the report "inconclusive" and "useless."

Among the old and well-known facts presented by the HEW report was that current state laws are "grossly inadequate." This

is the main reason for bringing in federal standards. Many states have no camp safety laws at all, and of the ones that do only a few enforce them to any meaningful degree. Thus, it is often left to the conscience or goodwill of the individual camp owners to provide the most in safety. Many owners are strict and do all they can for the children, but what of the ones who are not? Should they be allowed to set up a camp? How can parents tell the difference between safe and unsafe camps? By scanning the brochures? As for self-surveillance, only 3,500 of the nation's 10,600 camps are accredited by the American Camping Association.

The proposed Youth Camp Safety legislation of Rep. Daniels establishes minimum federal safety standards which the states can assume on their own—states that do not act will be subject to HEW authority—with HEW paying up to 80 per cent of the costs. The Senate is considering a bill that is weaker, because it would only provide funds for states that wish to adopt a youth camp safety program, leaving unprotected children in states that refuse to comply. The weakness of this approach is the poor record of the states in adopting youth camp safety legislation. Since hearings began three Congresses ago, only six states have upgraded their laws to the point of being comprehensive. Hope is offered in the Senate, however, because Sen. Walter F. Mondale (D-Minn.) will soon introduce another bill, one as strong as the Daniels' proposal in the House.

Too many children and their parents have learned the hard way that summer camp safety is a much neglected issue. It is shameful that only Rep. Daniels and a few others—including private citizens using their own time and money—have been active in this lonely campaign. What is needed now is a strong commitment from HEW, the kind that has been lacking for so long and in part has been contributing to the many abuses within parts of the camping industry.

Mr. MONDALE. Mr. President, I also ask unanimous consent to have the text of the bill printed in the RECORD.

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

S. 3639

A bill to provide for the development and implementation of programs for youth camp safety

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 "Children and Youth Camp Safety Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to protect and safeguard the health and well being of the youth of the Nation attending day camps, resident camps, and travel camps, by providing for establishment of Federal standards for safe operation of youth camps, to provide Federal assistance to the States in developing programs for implementing safety standards for youth camps, to provide for the Federal implementation of safety standards for youth camps in States which do not implement such standards and for Federal recreational camps, thereby providing assurance to parents and interested citizens that youth camps and Federal recreational camps meet minimum safety standards.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "youth camp" means—

(A) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating five or more children under 18 years of age, living apart from their relatives, parents, or legal guardians for a period of, or portions of, 5 days or more, and includes a site that is operated as a day camp or as a resident camp; and

(B) any travel camp which sponsors or conducts group tours within the United States, or foreign group tours originating or terminating within a State, for educational or recreational purposes, accommodating within the group five or more children under 18 years of age, living apart from their relatives, parents, or legal guardians for a period of 5 days or more.

(2) The term "youth camp safety standards" means criteria directed toward safe operations of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling, mass feeding, and cleanliness; water supply and waste disposal; water safety, including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(3) The term "youth camp operator" means any private agency, organization, or person, and any individual, who operates, controls, or supervises a youth camp, whether such camp is operated for profit or not for profit.

(4) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(5) The term "State" includes each of the several States, the District of Columbia, Puerto Rico, and the Virgin Islands.

GENERAL DUTY

SEC. 4. Each youth camp operator shall provide to each camper safe and healthful conditions, facilities, and equipment which are free from recognized hazards that are causing, or are likely to cause, death, serious illness, or serious physical harm, as well as adequate and qualified instruction. and supervision at all times, wherever or however such camp activities are conducted and with due consideration of conditions existing in nature.

PROMULGATION OF YOUTH CAMP SAFETY STANDARDS

SEC. 5. The Secretary shall develop, and shall by rule promulgate, modify, or revoke youth camp safety standards. In developing such standards, the Secretary shall consult with State officials and with representatives of appropriate public and private organizations, and shall consider existing State regulations and standards and standards developed by private organizations which are applicable to youth camp safety. The Secretary shall make the initial promulgation of standards required by this section within 1 year after the effective date of this Act.

STATE JURISDICTION AND STATE PLANS

SEC. 6. (a) Any State which, at any time, desires to assume responsibility for development and enforcement of youth camp safety standards applicable to youth camps therein (other than travel camps) shall submit a State plan for the development of such standards and their enforcement.

(b) The Secretary shall approve a plan submitted by a State under subsection (a), or any modification thereof, if such plan in his judgment—

(1) designates a State agency as the agency responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of youth camp safety standards which standards (and the enforcement of such standards) are or will be at least as effective in providing safe operation of youth camps (other than travel camps) in the State as the standards promulgated under section 5,

(3) provides for the enforcement of the standards developed under paragraph (2) in all youth camps in the State which are operated by the State or its political subdivisions,

(4) provides for an inspection of each such youth camp at least once a year during a period the camp is in operation,

(5) provides for an advisory committee, to advise the State agency on the general policy involved in inspection and certification procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping.

(6) provides for a right of entry and inspection of all such youth camps which is at least as effective as that provided in section 9,

(7) contains satisfactory assurances that such State agency has or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(8) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(9) provides that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require,

(10) provides assurances that State funds will be available to meet the portions of the cost of carrying out the plan which are not met by Federal funds, and

(11) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this Act.

(c) The Secretary shall approve any State plan which meets the requirements of subsection (a), but shall not finally disapprove any such plan, or any modification thereof, without affording the State agency reasonable notice and an opportunity for a hearing.

(d) Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall (1) notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan; and (2) shall notify such State agency that no further payments will be made to the State under this Act (or in his discretion, that further payment to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this Act (or payment shall be limited to programs or portions of the State plan not affected by such failure).

(e) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within 30 days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of

such plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

GRANTS TO STATES

SEC. 7. (a) The Secretary may make grants to States which have in effect plans approved under section 6 to assist them in carrying out such plans. No such grant may exceed 80 per cent of the cost of developing and carrying out the State plan. Payments under this section may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of underpayments or overpayments.

(b) There are authorized to be appropriated for the fiscal year 1973, and each of the five succeeding fiscal years, such sums as may be necessary to make the grants provided for in this section.

ENFORCEMENT BY SECRETARY; CITATIONS

SEC. 8. (a) The Secretary shall be responsible for the enforcement of youth camp safety standards in States which do not have in effect a State plan approved under section 6, and with respect to travel camps.

(b) The Secretary shall issue regulations and procedures providing for citations to youth camp operators for any violation of the duty imposed by section 4, of any standard, rule, or order promulgated pursuant to section 5, or of any regulations prescribed pursuant to this Act. Each citation shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to *de minimus* violations which have no direct or immediate relationship to safety or health.

INSPECTIONS, INVESTIGATIONS, AND RECORDS

SEC. 9. (a) In order to carry out his duties under this Act, the Secretary may enter and inspect any youth camp and its records, may question employees, and may investigate facts, conditions, practices, or matters to the extent he deems it necessary or appropriate.

(b) For the purpose of any hearings or investigation provided for in this Act, the provisions of section 8(b) of the Occupational Safety and Health Act of 1970 shall be applicable to the Secretary.

(c) To determine the areas in which safety standards are necessary and to aid in promulgating meaningful regulations, camps subject to the provisions of this Act shall be required to report annually, on the date prescribed by the Secretary, all accidents resulting in death, injury, and illness, other than minor injuries which require only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of activity or motion, or premature termination of the camper's term at the camp. Camps operating solely within a State which has in effect a State plan approved under section 6 shall file their reports directly with that State, and the State shall promptly forward such reports on to the Secretary. All other camps, including travel camps, shall file their reports directly with the Secretary. The Secretary shall compile the statistics reported and include summaries thereof in his annual report to the President and Congress.

PENALTIES

SEC. 10. (a) Any youth camp operator who willfully or repeatedly violates the requirements of section 4, any standard, rule, or order promulgated pursuant to section 5, or of any regulations prescribed pursuant to this Act may be assessed a civil penalty of up to $2,500 for each violation.

(b) Any youth camp operator who has received a second or subsequent citation for a serious violation of the same nature of the requirements of section 4, of any standard, rule, or order promulgated pursuant to section 5, or of any regulations prescribed pursuant to this Act, shall be assessed a civil penalty of up to $1,000 for each such violation.

(c) Any youth camp operator who fails to correct a violation for which a citation has been issued under section 8(b) within the period permitted for its correction may be assessed a civil penalty of not more than $500 for each day during which such failure or violation continues, or until the camp closes in its normal course of business.

(d) For purposes of subsection (d) a serious violation shall be deemed to exist in a youth camp if there is substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such camp, unless the operator did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(e) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the operator has his principal office.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 11. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any youth camp, or in any place where camp activities are conducted, which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger.

(b) Upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this Act.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any campsite or place of camp activity, he shall inform the affected campers, camp owners, and camp supervisory personnel of the danger and that he is recommending to the Secretary that relief be sought.

VARIATIONS

SEC. 12. The Secretary, upon application by a camp owner showing extraordinary circumstances or undue hardship, and upon the determination by a field inspector, after inspection of the affected premises and facilities, that the conditions, practices, or activities proposed to be used are as safe and healthful as those which would prevail if the camp owner complied with the standard, may exempt such camp or activity from specific requirements of this Act, but the terms of such exemption shall require appropriate notice thereof to parents or other relatives of affected campers.

TRAVEL CAMPS

SEC. 13. (a) All travel camps shall register annually with the Secretary on such date as he shall prescribe.

(b) Registration shall consist of a declaration of intent to operate a travel camp and shall contain such other information as the Secretary may reasonably require, such as, but not limited to, a disclosure of the principal owners and/or operators and their addresses, a list of key supervisory personnel and their qualifications, the equipment belonging to the camp which will be utilized in operating the camp, and a reasonably explicit description of the itinerary for each planned tour route and activities, number of enrollment, number of counsellors and supervisory personnel to accompany each tour and their qualifications.

FEDERAL RECREATIONAL CAMPS

SEC. 14. (a) The Secretary shall develop safety standards to govern the operation of Federal recreational camps. The Secretary shall cooperate with Federal officers and agencies operating Federal recreational camps to assure that such camps are operated in compliance with the Secretary's standards. The Secretary may make the services of personnel of the Department of Health, Education, and Welfare available, without reimbursement, to other Federal agencies to assist them in carrying out this section.

(b) For purposes of this section, a Federal recreational camp is a camp or campground which is located on Federal property and is operated by, or under contract with, a Federal agency to provide opportunities for recreational camping to the public.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 15. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The council shall consist of the Secretary, who shall be chairman, and nine members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service and shall include one representative from the Department of the Interior. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 16. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once in each fiscal year a comprehensive and detailed report on the administration of this Act.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this title; and such department or agency is authorized to furnish such information, suggestion, estimates, and statistics directly to the Secretary.

(c) Nothing in this Act or regulations issued hereunder shall authorize the Secretary, a State agency, or any official acting under this law to restrict, determine, or influence the curriculum, program, or ministry of any youth camp.

(d) Nothing in this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who

object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others.

AUTHORIZATION

SEC. 17. There are authorized to be appropriated to carry out the provisions of this Act (in addition to the amounts authorized in section 7) such sums as may be necessary for the fiscal year ending June 30, 1973, and for each of the five succeeding fiscal years.

EFFECTIVE DATE

SEC. 18. This Act shall take effect 90 days after the date of its enactment.

By Mr. MOSS:

S. 3640. A bill to guarantee to the civilian employees of the executive branch of the United States the right to have a counsel or representative of his choice present during interrogations which may lead to disciplinary actions and to prevent unwarranted reports from employees concerning their private life. Referred to the Committee on Post Office and Civil Service.

FEDERAL EMPLOYEES' RIGHT TO COUNCIL

Mr. MOSS. Mr. President, this week, I introduced S. 3623, a bill to guarantee to Federal employees the right to a prompt evidentiary hearing prior to removal or suspension without pay.

Today I am introducing what I regard as a companion bill. This proposal would guarantee to Federal employees the right to counsel during interrogations which may lead to disciplinary actions. The bill would also prevent agencies from obtaining unwarranted reports from employees concerning their private lives.

My congressional colleagues are well aware that I have always strongly defended the U.S. Civil Service. The Federal Government has made great strides since the days of the "spoils system," and today's Civil Service System stands as one of our Nation's great achievements.

But there is still room for considerable improvement. The vast majority of our Federal employees take pride in their jobs, and they are devoted to the service of their country. I am afraid, however, that we have not yet provided these employees with all of the legal safeguards necessary to carry out their jobs with the steadfastness the Federal service requires.

There is no greater impediment to devoted, wholehearted service than the threat of unreasonable or capricious discipline. Unfortunately, we have yet to establish fully adequate protection against the threat of arbitrary suspension or firing, and against the infringement of individual privacy.

The legislation I am proposing would go a long way toward establishing this protection. The bill is part of the legislative program of the National Treasury Employees Union. I have found from working on legislation with this group, as well as other Government employee unions, that they are concerned not simply with improving the lot of their own members, but with improving the Civil Service System, and thereby strengthening our American system of Government.

By Mr. MONTOYA:

S. 3641. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 2-year period, and for other purposes. Referred to the Committee on Public Works.

Mr. MONTOYA. Mr. President, as chairman of the Subcommittee on Economic Development of the Committee on Public Works, I introduce today a bill to extend and amend the Public Works and Economic Development Act of 1965, as amended. The bill provides for continued authority of the Economic Development Administration and the seven title V Regional Action Planning Commissions. Present authority expires on June 30, 1974.

I am pleased that Senator JENNINGS RANDOLPH, chairman of the Committee on Public Works, is cosponsoring this bill. Senator RANDOLPH has long championed economic development programs, giving critical support at all times but especially when the executive branch has been less than steadfast in its support.

The Public Works and Economic Development Act first became law in 1965, the same year of the Appalachian Regional Development Act. The Congress intended to bring Federal assistance to areas and regions suffering from high unemployment and underemployment. A partnership between local areas, multicounty districts, States, and the Federal Government has resulted over the years from this legislation.

The purpose of this bill is to extend the authorization of funds and programs under this act for 3 years. We believe a 3-year authorization period is necessary to build back stability into the administration of these programs. Congress is again telling this administration that it does not want to terminate these successful programs. We had to fight last year to continue the EDA and the title V Commissions for 1 year. The time for a substantial measure of permanence in these programs is now. The failure of the administration to propose something more than another 1-year temporary effort adds to the creditability gap that haunts it on a number of fronts.

When Congress extended the act for a 1-year period last June, it instructed the administration to submit within 6 months a proposal for restructuring these programs if past efforts needed improvement. The result was a proposal called the Economic Adjustment Assistance Act. The Department of Commerce and the Office of Management and Budget requested a 1-year extension of the present program during which it hoped to phase out EDA and the Commissions and to phase in the new adjustment program, which is essentially a block-grant program.

The Subcommittee on Economic Development heard administrative spokesmen for the proposal at a hearing in March. S. 3041 contains that proposal.

Since the proposal was submitted, we have gathered a great many reactions to the administration's bill—and they are in large measure negative. Few people and groups who know these programs believe it wise to jettison a program and an agency that have performed well and have gained vast experience about what constitutes economic development. The administration proposal would, of course, throw the action to the States. Much of our feedback questioned whether the States could carry out such programs with their present capabilities. The bill I introduced today addresses the role of the States and moves to increase their capabilities, without in any way detracting from the role of development districts and local communities.

Mr. President, these programs have a great deal of support in Congress. The extension bill last year passed by a wide bipartisan margin. The need for Federal economic development programs does not diminish. The economy is in trouble. Unemployment hits today like a hurricane, literally devastating communities. Inflation, of course, hurts everyone, but it hurts the unemployed and low-income families the most. These programs are designed to reach the unemployed and underemployed through long-range efforts.

The need persists and is greater than ever—not just in the rural America, but also in our cities—for the special kinds of tools provided in the Public Works and Economic Development. Act. For this reason, I have proposed in this bill authorizations which are significant increases over the 1975 act for a number of the programs.

I believe more money not less should be put into these programs. Unfortunately, the underfunding we have experienced in the past has had the effect of keeping EDA and the Commissions from attaining the best effect resulting from adequate lead-time planning. What we have seen is the administration asking for but a fraction of the authorizations, then coming back and telling Congress that its evaluation says the impact of these programs has not measured up to the goals and purposes for which they were enacted. Thus, they should be terminated. I suggest the effect is that of the proverbial shell game.

Mr. President, the principal features of the bill are these: First, to extend the life of these programs for a 3-year period, to June 30, 1977. Second, to continue present program categories, with some amendments and additions. Third, to institute a broad new effort to increase the States' capabilities in economic development. And fourth, to establish a program specifically to deal with the severe economic consequences of base closings, environmental requirements and similar Federal actions.

The bill sets the title I public works authorization at a realistic figure of $300 million annually. The downhill sliding of the economy in recent years means the addition of more and more eligible areas. The flexibility and impact of EDA's public works program for both country and city is known and satisfactorily tested. Up to $30 million annually of this authorization is to be available for operating grants for educational and health facilities such as vocational schools and hospitals whose construction initially was financed in part from title I funds.

Title II authorization which includes business loans and guarantees is increased from a very low $55 million for fiscal year 1974 to $100 million annually.

The authorization figure for all the preceding years was $170 million annually. Our most recent hearings in New England in May documented for the subcommittee current and continuing need for a sound, flexible and expanded business loan program. Amendments to this title add to that flexibility.

Title II is the planning and technical assistance title. The bill launches an additional thrust to the planning heretofore undertaken—it emphasizes economic development planning, with grant money provided for that purpose to States and substate entities. The bill I introduce provides specific new authorization of $15 million to States to speed up their capability to do that much needed economic development planning at that level.

Since 1965 EDA has significantly improved planning capabilities at county levels, at district levels, at multi-State regional levels—indeed, at every level but the State level. This provision will redress that omission. The Federal Government must assist in the effort to improve the ability of the States to deal with the impact of adverse economic forces and to participate in the programs designed to correct longstanding economic imbalance.

The bill further supports this effort by adding a significant new program to the act to begin with fiscal year 1966 and 1967. It would provide authority under title III to establish a supplementary public works grant program to be administered by the States. The funds would supplement title I projects. Funds would be allocated to each State based on the ratio of title I grants within each State since the act first became law. States would match the Federal funds it grants to local public works projects on the basis of three Federal dollars to one State dollar ratio. The first year, fiscal 1975, would be a planning year for the States. The authorization for 1976 and 1977 would be $100 million each year. Mr. President, this effort, I believe, will do much to bring the States into the economic development activity more meaningfully than has been possible before. While I do not favor a block-grant approach as a substitute for the programs authorized in this act, I find this proposal compatible with State involvement in economic development.

Title IV of the act has to do with eligibility of areas, and with the development district program. The new language opens up title I areas to title II eligibility. Many of these areas are urban. This added eligibility should greatly assist the beginnings of their development programs, as well as continuing to assist programs in the rural counties.

The basic building block of the Public Works and Economic Development Act since its inception has been the development district program. The law has required two redevelopment areas in a district to enable it to receive funds. For a number of years there has been discussion about liberalizing this statutory requirement which had validity when the program first began. The district was an experimental approach to deal with jobs and income at a multicounty level. However, the two-area requirement limits the number of districts.

Mr. President, EDA's district program is its most successful program. Most States have developed multicounty planning, development, and coordinating institutions, many of them spurred by the effectiveness of the EDA development districts. The OMB-Department of Commerce evaluation report this year concedes that the EDA's district program is a success. Many other Federal programs today seek regional focus in their application. Some States have legislated their own programs. The result is a flexible, multijurisdictional institution that seems to have passed the innovation stage and is here to stay.

The bill reduces the requirement of two redevelopment areas for each district to one. The practical effect will be to increase substantially the number of districts that can be formed and designated and begin a program in economic development

The bill authorizes $200 million for each of the fiscal years for the title V regional commissions. They are popular with the States. Their achievements are real and enduring. I know in my own State the significant role in development played by the Four Corners Regional Commission. But like someone once said about Christianity—"It's not that it has failed; it's never been tried." Neither have the regional commissions been tried in the sense of having a meaningful level of funding and with a 2- or 3-year mandate so that longer than 1-year efforts can be planned. They are understaffed and underfunded. I propose to assist this multi-State approach reach its potential by present authorization more than doubling its present $95 million annual authorization.

Another significant feature of the bill is the addition of a new title. Title IX recognizes the legitimacy of the concern of the administration, States, and localities for a meaningful response to deal with the severe economic consequences of Federal actions. Typical examples are the closing of military bases or closing certain industries because of environmental requirements. A good recent example of this is the closing of naval facilities in Rhode Island. The bill would establish a program to assist States and communities in dealing with these events, before the fact if possible. The bill authorizes $100 million annually, to be administered by the Secretary of Commerce. It will be remembered that the administration wanted to make the entire program an adjustment program, phasing out the other EDA and Commission programs. What I propose here is an expansion of the authority in the act, which has provided for EDA assistance in section 401(a)(4), the "sudden rise" section, to communities affected by unexpected plant and base closings. This program would consolidate those efforts and provide special program status; this special program will enable us to continue to meet long-term economic development needs while giving us the ability to meet economic emergencies without one effort detracting from the other.

Finally, the bill provides an additional $25 million annual authorization for Indians. Indian groups would continue their eligibility for title I funds. The purpose here is to earmark funds so that they are not placed in competition for limited funds with non-Indian communities.

Mr. President, a hearing has been scheduled for June 26, 1974, beginning at 9:30 a.m. in the Senate Public Works Committee hearing room, 4200 Dirksen Senate Office Building. The hearing will hear testimony from administration officials, representatives of affected public interest groups, and Senators on this bill as well as on the administration proposal, S. 3041. Should the House bill, H.R. 14883, pass that body by that date, we shall of course also welcome testimony on it.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in my remarks.

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

S. 3641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of Section 105 of the Public Works and Economic Development Act of 1965 as amended, is amended by striking the period at the end thereof and inserting a comma and the following: "and not to exceed $300 million for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.". The final sentence of section 105 of such Act as amended, is amended by striking "and after the words" June 30, 1973" and inserting June 30, 1975, June 30, 1976, and June 30, 1977." Section 105 of such Act is further amended by adding at the end thereof the following: "For each of the fiscal years and June 30, 1975, June 30, 1976, and June 30, 1977 not to exceed $30 million of the funds authorized to be appropriated for each such fiscal years shall be available for grants for operation of any health or educational project heretofore or hereafter funded under this title, and such grants may be made up to 100 per centum of the cost thereof for a two year period and 75 per centum thereof in any succeeding fiscal year for which such grant is made.

SEC. 2. (a) Title I of such Act, as amended, is included by striking out section 102.

(b) Title IV of such Act is amended—

(1) by adding the following new paragraph at the end of section 401(a):

"(8) those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, were areas of substantial unemployment during the preceding calendar year."; and

(2) by striking out the period at the end of section 401(a)(7) and inserting in lieu thereof a semicolon.

(c) Any area of substantial unemployment so designated under authority of section 102 of title I of the Public Works and Economic Development Act of 1965 which has not had such designation terminated before the date of enactment of this section shall be deemed for the purposes of such Act to be such an area designated under section 401(a)(8) of such Act.

SEC. 3. (a) Section 201(c) of such Act, as amended is amended by striking out the period at the end and inserting in lieu thereof ", and shall not exceed $100 million per fiscal year for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.".

(b) Section 202 of such Act, as amended, is amended—

(1) by striking all of subsection (a) and inserting in lieu thereof the following new subsection:

"SEC. 202. (a)(1) The Secretary is authorized to aid in financing, within a redevelop-

ment area, the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings by (A) purchasing evidences of indebtedness, (B) making loans (which for purposes of this section shall include participation in loans), (C) guaranteeing loans made to private borrowers by private lending institutions, for any of the purposes referred to in this paragraph upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

"(2) The Secretary is authorized to aid in financing any industrial or commercial activity within a redevelopment area by (A) making working capital loans, (B) guaranteeing working capital loans made to private borrowers by private lending institutions upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan,";

"(C) guaranteeing rental payments of leases, except that no such guarantee shall exceed 90 per centum of the remaining rental payments required by the lease."

(2) by striking in subsection (b)(7) the comma after the words "no loan" and inserting immediately thereafter the words "or guarantee,".

(3) by striking out in subsection (b)(9) "Loan assistance" and inserting in lieu thereof "Loan assistance (other than for a working capital loan)".

SEC. 4. (a) Section 302 of Such Act, as amended, is amended by redesignating such section as section 303.

(b) Such Act, as amended, is amended by inserting immediately after section 301 the following new section 302:

"302. (a) The Secretary is authorized, upon application of any city or other political subdivision of a State, or sub-State planning and development organization (including an economic development district), to make direct grants to such city, other political subdivision, or organization to pay up to 100 per centum of the cost for economic development planning.

The Secretary is further authorized to assist economic development districts in—

"(1) providing technical assistance (other than by grant) to local governments within the district; and

"(2) carrying out any review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968, if such district has been designated as the agency to conduct such review.".

(b) The Secretary is authorized upon application of any State to make direct grants to such State to pay up to 100 per centum of economic development planning. Any overall State economic development plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and economic development districts located in whole or in part within such State, and such State plan shall, to extent possible, be consistent with local and economic development district plans.

(c) Section 303 of such Act, as redesignated by this Act, is amended by inserting "(a)" immediately after "Sec. 303.", by striking out the period at the end of such subsection and inserting in lieu thereof the following: "and $75 million per fiscal year for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.", and by adding at the end of such section the following new subsection:

"(b) Not to exceed $15 million in each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, shall be available to make grants under subsection (b) of Section 302."

(d) There is hereby authorized to be appropriated $100 million for each of the fiscal years ending June 30, 1976 and June 30, 1977, for allocation by the Secretary among the States for the purpose of supplementing grants made pursuant to Title I of this Act. Such funds shall be allocated among the States in the ratio which grants made under Title I since August 26, 1965 in each State is to total grants made to all States since August 26, 1965. Such supplementary grants shall be made by the Governor with respect to any projects approved by the Secretary after date of enactment of this Act and may be used to reduce the non-Federal share below the 20 per centum required by subsection (c) of Section 101 or may be used to waive the non-Federal share. Funds available under this section shall be available for such supplementary grants if the State provides a matching share of 25 per centum of the funds made available to the State under this subsection.

SEC. 5. (a) Section 403(a)(1)(B) of such Act, as amended, is amended by striking out the words "two or more redevelopment areas" and inserting in lieu thereof "at least one redevelopment area".

(b) Section 403 of such Act, as amended, is amended by inserting at the end of such section the following two new subsections:

"(i) Each economic development district designated by the Secretary under this section shall as soon as practicable after its designation provide that a copy of the district overall economic program be furnished to the appropriate regional commission established under title V of this Act, if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965, if any part of such proposed district is within the Appalachian region.

"(j) The Secretary is authorized to provide the financial assistance which is available under this Act to a redevelopment area to those parts of an economic development district which are not within a redevelopment area, when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section."

(c) Section 403(g) of such Act, as amended, is amended by striking out "for the fiscal year ending June 30, 1974," and inserting in lieu thereof "per fiscal year for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and June 30, 1977.

(d) In addition to 403(g), there is hereby authorized to be appropriated not to exceed $25 million for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, for projects for Indian tribes to otherwise carrry out the purposes of this Act.

SEC. 6(a) Section 503 of such Act, as amended, is amended by striking out "and training programs" and inserting "training programs, and the payment of administrative expenses to substate planning and development organizations (including economic development districts)," in lieu thereof.

(c) Section 509(d) of such Act, as amended, is amended by striking out "for the fiscal year ending June 30, 1974, to be available until expended $95,000,000," and inserting in lieu thereof "for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, to be available until expended $200,000,000."

(d) Section 511 of such Act, as amended, is amended to read as follows:

"COORDINATION

"SEC. 511. (a) The Secretary shall coordinate his activities in making grants and loans and providing technical assistance under this Act with those of each of the regional commissions (acting through the Federal and State cochairmen) established under this Act in making grants and providing technical assistance under this title, and each of such regional commissions shall coordinate its activities in making grants and providing technical assistance under this title with whose activities of the Secretary under this Act.

"(b) Each regional commission established under this Act shall coordinate its activities under paragraphs (2) and (7) of section 503(a) of this Act with the activities of the economic development districts in such region."

SEC. 7. Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles 1 through IV through fiscal year 1971", approved July 6, 1970 (Public Law 91-304), is amended by striking out "1974" and inserting in lieu thereof 1977".

SEC. 8. The Public Works and Economic Development Act of 1965, as amended, is amended by adding the following new title at the end of the Act:

"TITLE IX—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

"PURPOSE

"SEC. 901. It is the purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government and from compliance with environmental requirements that remove economic activities from a locality.

"DEFINITION

"SEC. 902. As used in this title, the term 'eligible recipient' means a State, a redevelopment area or economic development district established under title IV of this Act, an Indian tribe, a city or other political subdivision of a State, or a consortium of such political subdivisions.

"GRANTS BY SECRETARY

"SEC. 903. (a) The Secretary is authorized to make grants to any eligible recipient which has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government) to carry out a plan which meets the requirements of subsection (b) of this section and which is approved by the Secretary, to use such grants for any of the following: public facilities, public services, business development, planning, unemployment compensation, rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals, and other appropriate assistance. Such grants may be used in direct expenditures by the eligible recipient or through redistribution by it to public and private entities in grants, loans, loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profitmaking entity.

"(b) No plan shall be approved by the Secretary under this section unless such plan shall—

"(1) identify each economic development and adjustment need of the eligible recipient for which assistance is sought under this title;

"(2) describe each activity planned to meet each such need;

"(3) explain the details of the method of carrying out each such planned activity;

"(4) contain assurances satisfactory to the Secretary that the proceeds from the repayment of loans made by the eligible recipient with funds granted under this title will be used for economic adjustment; and

"(5) be in such form and contain such additional information as the Secretary shall prescribe.

"(c) The Secretary shall as is practicable coordinate his activities in requiring plans and making grants and loans under this title with regional commissions, states, economic development districts and/or other appropriate planning and development organizations.

"REPORTS AND EVALUATION

"SEC. 109. (a) Each eligible recipient which receives assistance under this title shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

"(b) The Secretary shall provide an annual consolidated report to the Congress, with his recommendations, if any, on the assistance authorized under this title, in a form which he deems appropriate. The first such report to Congress under this subsection shall be made not later than January 30, 1976.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 905. There is authorized to be appropriated to carry out this title not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.".

By Mr. BROCK:

S. 3642. A bill to establish certain programs to promote innovation in transportation. Referred to the Committee on Commerce.

Mr. BROCK. Mr. President, I am introducing legislation today which I believe could significantly improve our approach to transportation policymaking. It would do that by encouraging innovation through the pilot testing of new approaches to policy. At the very least it would enhance our understanding of the economic dynamics of transportation by air and road, and increase our knowledge of the costs and benefits of some of our present policies. Its four measures are firmly based on economic theory, but do not restrict themselves to an academic ideal of optimum economic efficiency.

In transportation policymaking, as in all matters, we take other factors into consideration including fairness, regional balance, broader national interest, et cetera. This is right and proper. It is equally proper, however, that we make such decisions on the basis of the full facts, and that we be explicitly aware of how much a particular policy is costing us, what its benefits are, and to whom they flow.

This concern for explicitness and openness is central to the first two components of the bill. The first requires that at all Civil Aeronautics Board hearings, estimates of the main benefits of proposed policy decisions shall be given together with the assumptions underlying such estimates, and that any group shall be allowed to present its own similar analyses. This would require, in effect, a broad economic impact statement analogous to the environmental impact statement we now demand for major investment decisions. It recognizes that transportation services do have significant economic consequences for interests or groups as well as areas and that we should attempt to take this explicitly into account instead of implicitly as we do now.

The essential point is that the CAB is supposed to regulate the airline industry in the public interest when, quite frankly, I do not see any accepted definition of that term. I suspect that many of us assume it be equal to consumer interest but the evidence shows otherwise, for the CAB is mandated to also take into consideration other aims including, amongst others, national defense, the highest degree of safety, sound economic conditions in the industry, and improving the relations between air carriers. We cannot blithely assume that all these various goals can be maximized simultaneously. If we want more of some, then you have to have less than the other—involving, therefore, the diversion of resources from one group to another.

The obvious implication from the fact that unregulated airline rates within California are significantly lower than interstate flights of a comparable length is that, to a significant extent, regulated resources are being directed from the consumer to other groups. As Prof. William Jordan, a leading economist on airline regulatory policy has pointed out, groups directly involved include airline employees, lawyers and regulatory practitioners, aircraft and engine manufacturers, government agencies, communication carriers, petroleum companies, et cetera.

Thus the goal of the lowest fares for the maximum number of people is, in fact, not a preeminent one. The CAB is also attempting to implement its wide, complex, ambiguous mandate to perform a variety of other functions. Yet, unless we try and make clear in this process what the rationale is, what the assumptions are, and what our priorities are between all these different goals, we run the danger of losing control of policymaking and eventually finding that we are fulfilling none of our aims very well or achieving them (very inefficiently) at incredibly high cost.

Thus, in this manner, for example, one of the alternative goals is to ensure the contribution of regulated airlines to the national defense. The failure of the present policy is indicated by the fact that, out of the 338 wide-bodied jets ordered through November, 1973, only 20 are to be convertible for cargo use and now we have a call to provide direct incentives to the airlines to purchase cargo capable aircraft.

On the other hand, if we wish aircraft engine manufacturers and airline employees to benefit, then we seem to have been doing well. We now have extraordinary excess capacity resulting from three major postwar replacement cycles and from the underutilization of aircraft.

I believe we should attempt to bring these issues under more explicit consideration—and that this measure, while in no way a complete answer, would be a significant step in that direction.

The same principle underlines section two, which deals with the provision of air service to small communities. In a report by the CAB's own staff on this issue, they pointed out that the cost of supporting short haul, low density air service using large aircraft was not the small amount claimed. Instead it amounted to more than $20 per passenger on the average, and in one extreme case over $200.

The report also calculated the considered savings that could be achieved if the current support program, which is a very complex mix of indirect with direct subsidy, were changed to one totally direct subsidy program relying on competitive bids. This is what this measure proposes—a 2-year test of this policy to see whether it can do what its proponents claim.

There is nothing in this measure which is hostile to serving small communities—it is just that we should attempt to supply that service at the least possible cost and that we should be conscious of what that cost is. It is simply impossible to conceive of a coherent transportation policy when whole parts of the network operate without a proper accounting of benefits and costs.

Section 3 addresses itself to the problem of airport congestion. Although the energy crisis has had certain positive effects in terms of reduction of flights, congestion is still a problem and will continue to be so in the future. Our traditional response to the long waiting lines for takeoff, or the seemingly eternal circling of the holding pattern, is to build more airports or expand existing ones. This was the moving force behind the 1970 airport development and aid program.

Yet, there is an increasing amount of evidence that this policy is a mistake. Indeed, let me quote Prof. Ross Eckert of UCLA, a leading expert on airport congestion:

> The program (ADAP) is unlikely to accomplish this goal for two reasons. First, most of the investments already bought will have little effect in reducing congestion. Second, by expanding facilities without imposing peak-hour landing fees demand and congestion are encouraged. The program has not only perpetuated the problem it was designed to deal with but has probably made the problem worse.

Thus, section 3 authorizes a pilot testing of peak-hour landing charges to see whether they would even out the demand for major airport use and divert some of the traffic to relieve airports. There is a very strong economic argument to suggest that it will.

A uniform fees structure in the context of peaked demands leads to many different inefficiencies. Thus, for example, when runway space is allocated by willingness to incur delay rather than willingness to pay, much lower valued flights, such as instructional, recreational or short haul carriers, are given

preference over high valued movements such as a heavily laden transcontinental jet.

Of course, the value of some short haul/general aviation trips may be higher, but most carrier flights will be of higher value, and this position is further supported by the experience of New York's three airports in 1968. When a $25 peak hour fee was applied, general aviation and air taxi traffic dropped by 30 percent at peak hours—strongly suggesting that it was of marginal value. On the other hand, the costs of congestion at these three airports during 1967–68 was estimated at almost $49 million.

The potential savings are enormous. A 1970 study of runway capacity at New York's JFK airport suggested that if minimum peak hour charges had been raised to $100 for all flights, the reduction in general aviation flights, and consolidation of competing flights, would roughly equal the entire projected growth in traffic at Kennedy by 1980. To accommodate this growth through increased runways would require a $200 million investment.

The FAA's preferred method of reducing severe congestion is administrative rationing with hourly quotas on the maximum number of flights that can be utilized, but the FAA can have no empirical basis on which to divided up the time between carriers, air taxis, and general aviation. It is really no more than administrative guess work substituted in place of the function that prices routinely provide.

Now it would be dishonest to pretend that this measure guarantees success. In fact, I am saying the exact opposite. Let us experiment—let us give the FAA the authority to try this out at certain major congested airports. The FAA has resisted the experimental use of peaked landing fees on the grounds that it might increase costs or dislocations to the aviation system—a position which ignores the costs and disallocations caused by the present system.

The only way to resolve the question is to try it out—a good test would be at Washington's National and Dulles Airports. If it is proven to have no positive effect, even that will be an advance as we then have greatly increased knowledge of the economic nature of aviation traffic.

Exactly the same points apply to the final part of the bill, which would allow the Secretary of Transportation to negotiate with recipients of mass transit funds to try out an experimental program of road user charges in congested highways. I have the benefit, here, of an analysis of our mass transit policies by Prof. George Hilton of the University of California. His basic position is that there are two very different interpretations of the decline in U.S. mass transit systems since World War II, and that most of our mass transit policies have been based on the one that is incorrect—thus dooming them to failure (or at least to only limited success).

The one which has been accepted was developed by Llye Fitch and Associates (a private research firm) in the early 1960's, and was at the heart of the 1964 Urban Mass Transportation Act. It states that mass transit declined because it was undercapitalized. The channeling of enormous funds from the highway trust fund, and so forth into roads created an imbalanced situation, with mass transit being increasingly unable to compete with the car. In a sense, then, it says that travelers were lured away from mass transit by road construction and can be lured back again if the investment imbalance is rectified. Thus it follows fairly logically that our policy should be to spend money on mass transit, its appeal will return and thus ridership.

The alternative interpretation, however, states that the decline is not simply a result of us spending a lot of money on roads and little on mass transit, but is also related to significant changes in the geographic layout of cities, changes in the labor force, changes in recreation habits (and a whole set of similarly complex changes). At the very least this interpretation suggests that the reasons for mass transit deterioration are more complicated than just a lack of money being spent on them. In particular, it says that, linked in with the changes in city form (growth of suburbia, and so forth) is the fact that as families' income has increased the demand for cars has gone up even faster. Thus, simply spending money on mass transit in itself will not change the situation. Drivers can only be persuaded to change their behavior when driving becomes more costly to them.

If one accepts such an interpretation, one should have a two-barreled approach of simultaneously improving mass transit together with pricing road use in congested areas at peak times, preferential treatment for public transport vehicles, and so forth—car users pay by having to wait longer than bus passengers. The rationale for this is that the social costs of car use in certain cities at certain times has become almost intolerably high, and that this type of policy is equitable because rush-hour drivers do not pay the full costs of providing the capacity to handle peak hour traffic, the congestion, pollution, and so forth, they cause.

Such a policy does not involve physical restriction on anyone, but just a use of the price mechanism to improve transportation, (and transportation policy) in cities. Further, it would be tried out only in conjunction with funding of new significant mass transit improvements. I am also hopeful that this proposal will stimulate more debate and awareness of the state of the art in technologies for road pricing.

At present one of the drawbacks of such ideas is that so many of us automatically assume their implementation would involve toll booths or meters with corresponding delays and traffic holdups. This is not the case at all. There are schemes which insure payment without delay and trouble in collection. One excellent idea indicative of what I mean has been developed by Mr. Sumner Myers of the Institute of Public Administration. Mr. Myers' idea simply involves a prepaid windshield sticker for congested area driving which, comprised of two chemicals, would after a predetermined period, change to a new distinctive color, thus signifying that the driver's paid-for time is up. Enforcement could thus be greatly simplified. At peak hours, unless you have a sticker and it is the right color, you are going to get a ticket.

I am not suggesting that such an idea has all the answers, but I do believe that with a little ingenuity we could develop a viable system of peak hour user charges. And then the decision of the individual traveler could be made in an economic context which more truly reflects the total cost to society at large of providing him with the transportation facilities.

None of these proposals offers panaceas for our transportation ills—neither will I pretend that they will guarantee improvements. What I can say with assurance is that they are all based upon thoughtful and rigorous economic analyses which predict significant improvements. Their adoption does not rule out other policy options and does not involve us in enormous expenditures. Even if they all proved to have little effect, we will have had the benefit of the knowledge gained, while, if they are successful, they offer the potential building blocks for policies to insure a better, more efficient and effective transportation system.

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

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

S. 3642

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 "Transportation Innovation Act of 1974".

BENEFIT AND LOSS STATEMENT IN AIR CARRIER REGULATION

SEC. 2. Section 401 of the Federal Aviation Act of 1958 is amended by inserting at the end thereof the following:

"BENEFIT AND LOSS STATEMENT

"(o) Any application for a certificate or permit, or change therein, or for a change in any rate, fare, or charge, classification, rule, regulation, or practice, or for any other action pursuant to this title which would affect service to the public shall be accompanied by an estimate of public benefits and losses resulting therefrom, including any unusual benefits or losses to identifiable major groups within the public. The Board shall determine its own such estimates and shall accept and give consideration to such estimates from interested parties. All such estimates shall be matters of public information."

DEMONSTRATION PROGRAM IN PROVIDING AIR SERVICE TO SMALL COMMUNITIES

SEC. 3. (a) It is the intent of the Congress in enacting this section to authorize the conduct of a demonstration program by the Civil Aeronautics Board which would enable the Congress to evaluate the advantages and disadvantages of a contract method of providing air service to small communities.

(b) As used in this section—

(1) "Air carrier" means any citizen of the United States who engages directly in, or proposes to engage directly in, air service.

(2) "Air service" means the carriage by aircraft, on a regularly scheduled basis, of persons or property as a common carrier for compensation or hire.

(3) "Board" means the Civil Aeronautics Board.

(4) "Citizen of the United States" means (A) an individual who is a citizen of the United States or of one of its possessions, or (B) a partnership of which each member is such an individual, or (C) a corporation or association created or organized under the laws of the United States or of any State, territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(5) "Small community" means a village, town, city, or other locality in the United States not receiving unsubsidized air service on a daily, schedule basis by a certificated air carrier.

(c) The Board is hereby authorized to enter into contracts with air carriers by which such carriers undertake to provide air service to and from small communities selected by the Board pursuant to the provisions and this section.

(d) The Board shall award contracts hereunder in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except that provisions of such Act which are determined by the Board to be inconsistent with the purposes of the experimental program shall be inapplicable to such contracts.

(e) Prior to the award of a contract under this section, the Board shall ascertain that the proposed contractor is capable of meeting, during the contract period, all requirements of the Board and of the Federal Aviation Administration for safety and reliability of operation.

(f) No contract under this section may exceed two years in duration or be renewed. No increase in contract price may be made for the benefit of an air carrier after the contract has been entered into, except for increases in costs attributable to Governmental actions.

(g) In exercising the authority granted in this section, the Board shall designate the geographical areas in the United States within which small communities will be selected for the award of contracts for the provision of air service. In designating such areas, the Board shall consider, among other things, the need to assure sufficient diversity among the several geographical areas, in regard to such factors as travel patterns of the population, the nature of flying conditions, population density, and the nature of the air service, if any, that would be provided other than pursuant to this section, in order that the areas considered together may afford a basis for the evaluation of the method of providing air service authorized by this section.

(h) In selecting small communities located in the areas designated pursuant to this section, the Board shall consider, among other things, the following factors:

(1) the need for sufficient diversity among the various small communities selected, so that the communities considered together may afford a basis for the evaluation of the method of providing air service authorized by this section;

(2) the availability and practicability of alternative means of transportation to and from the various small communities;

(3) the views of the small communities located within the geographical areas designated pursuant to this section, and of the appropriate agencies of the government of each State lying partially or wholly within such geographical areas;

(4) the views of air carriers, if any, currently providing air service to, from, or between any point or points in any geographical area designated pursuant to this section; and

(5) the effect of such selection on the development of the Nation's air transportation system.

(i) A contract between the Board and an air carrier for the provision of air service to a small community or communities shall include—

(1) the minimum number of frequencies the air carrier shall be required to operate to and from the small community or communities;

(2) the maximum rates and fares the air carrier may charge, subject to revision for such reasons and by such procedures as the Board may provide;

(3) minimum passenger capacity requirements in respect to the aircraft to be operated by the air carrier; and

(4) such arrangements as the Board may require by which the Government may be reasonably assured of reimbursement in the event of default by the air carrier, including reimbursement for the cost of obtaining another air carrier to provide the air service which the defaulting carrier undertook to provide.

(j)(1) The Board may suspend the certificate of any air carrier to provide air transportation on a subsidy-eligible basis to and from any small community in respect to which air service is to be provided under this section. Any suspension pursuant to this subsection shall be for no greater period than the term of the contract under which such air service is to be provided.

(2) The Board may relieve any air carrier from any provision of title IV of the Federal Aviation Act of 1958 (except subsection (k) of section 401 thereof) in respect to air service to small communities pursuant to this section if it finds that such action would be in the public interest.

(3) The provisions of sections 551–559 of title 5 of the United States Code shall not be applicable to actions of the Board under this section. Such actions may be taken without notice and hearing.

(k) The Board may prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this section.

(l)(1) The Board shall, thirty days prior to the initiation of the first procurement process authorized herein, report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate the geographical areas designated pursuant to subsection (g) of this section and the small communities selected pursuant to subsection (h).

(2) The Board shall, no later than one year from the date of enactment of this section and annually thereafter so long as a contract entered into hereunder remains outstanding, report to the Congress on the progress of the demonstration program authorized hereby. The Board's final report, which shall be submitted to the Congress within ninety days after termination of the last outstanding contract, shall include, among other things, the following: (A) the quality and extent of air service provided to small communities pursuant to this section, (B) the cost of the Government of such service, and (C) the Board's evaluation of the relative advantages and disadvantages of the contract method of providing air services to small communities.

(m) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section, but not more than $2,000,000 shall be appropriated in any fiscal year. Such sums shall remain available until expended.

(n) This section shall terminate two years after the date of its enactment. The termination of this section shall not affect the disbursement of funds under, or the carrying out of, any contract commitment, or other obligation entered into pursuant to this section prior to the date of termination.

DEMONSTRATION PROGRAMS TO REDUCE AIRPORT CONGESTION

SEC. 4. Title I of the Airport and Airway Development Act of 1975 is amended by inserting at the end thereof the following:

"DEMONSTRATION PROGRAMS TO REDUCE AIRPORT CONGESTION

"SEC. 54. (a) As a condition of carrying out projects pursuant to this title at airports selected by him for the purpose of this section the Secretary shall require the carrying out of demonstration programs at such airports to determine if increased user charges for airplanes using airports during hours of greatest congestion will significantly reduce such congestion.

"(b) The Secretary shall report the results of demonstration programs pursuant to this section to the Congress not later than two years after the date of enactment of this section."

DEMONSTRATION PROGRAMS ON REDUCING HIGHWAY CONGESTION WITH TOLL CHARGES

SEC. 5. (a) The Secretary of Transportation shall enter into such arrangements with recipients of assistance under the Urban Mass Transportation Act of 1964 as are necessary to carry out demonstration programs concurrent with impovement of mass transportation facilities, under which congestion at peak hours on heavily used highways and streets is reduced by the establishment of tolls for the use of such highways and streets during such hours.

(b) Programs pursuant to this section may be carried out notwithstanding the provisions in title 23 of the United States Code prohibiting the charging of tolls on highways constructed pursuant to the provisions of such title.

(c) The Secretary shall report the results of demonstration programs pursuant to this section to the Congress not later than two years after the date of enactment of this Act.

By Mr. JAVITS (for himself and Mr. TAFT):

S. 3643. A bill to amend the Rail Passenger Service Act of 1970 in order to expand rail passenger service. Referred to the Committee on Commerce.

Mr. JAVITS. Mr. President, I introduce today a bill that will commence the long overdue process of restoring our Nation's rail passenger system to the place it deserves in our overall national transportation program. Although the initial commitment to a federally supported National Railroad Passenger Corporation was made 4 years ago, and substantial progress has been made both in terms of better service and improved planning, it is imperative that this commitment be increased and amplified if we are to meet the goals of a truly balanced transportation system and obtain the benefits of a rail system that serves the Nation's needs.

For most Americans, travel by rail is not an available or feasible alternative to the airplane and the private automobile. Yet by the standards of energy efficiency, environmental improvement and land use, rail service provides not only a better alternative, but also a cru-

cial component of the solution to our environmental and energy dilemmas.

Moreover, our citizens have shown us that where convenient rail passenger service exists, the demand for its use has skyrocketed. Even before the onslaught of the energy crisis, which highlights the immediacy of the need for an expanded rail passenger system, the public finally began to return to the railroads as a means of transportation.

Amtrak's President, Roger Lewis, states in his report to the Congress of 1973, that, "travel demand that had been anticipated by 1977 as a result of normal growth is with us now." But even with this unprecedented increase in demand, Amtrak has neither the legislative commitment or direction which it so vitally needs to make rail service available to a greater number of people.

Currently only 1 percent of all intercity travel is via railroad. This compares to 87 percent by private automobile, 10 percent by air and 2 percent by bus. If we are to seriously attack the inefficiencies in energy utilization in the country—of which the transportation sector is the most blatant example—dramatic shifts in these percentages are essential and must be begun without further delay. Yet existing law requires only one new train to be instituted each year. This rate of expansion must be increased and better directed by the Congress.

The Rail Passenger Service Act amendments that I introduce today primarily address three related aspects of Amtrak service. Taken together, they could pave the way for an efficient and realistic transportation alternative for millions that presently have no rail passenger service at all and for millions more who, because of the inadequacy of the rail passenger system, cannot use Amtrak service for their major transportation event each year—their vacation travel.

Section 1 of these amendments would require Amtrak, over a 4-year period, to institute rail service to every major urban center in the Nation, except where it is affirmatively determined that such service is unnecessary or impracticable.

It is startling that our national rail passenger system, as it is presently constituted, does not serve such cities as Cleveland, and Toledo, Ohio, Tulsa, Oklahoma, or Jersey City, N.J. These omissions must be corrected.

The presumption should be reversed from a city having the burden of proving that it needs rail service more than any other city to a finding that rail service to all cities will be provided unless it is unnecessary or would not serve the public interest.

This year, under the experimental train provision of exisiting law, more than a dozen applications—each with substantial merit—were received by the Department of Transportation for designation as the experimental route. Yet, service on only one route is required to be instituted, and it is unlikely that more than one will be selected. It is time that our States and cities receive the rail service that they need: service that cannot commence unless the Federal Government provides the necessary incentives.

In addition to mandating service to major urban centers, section I would require direct medium distance rail service between large population centers—service which is currently insufficient. It is generally held that rail passenger service demand is greatest for points 100 to 300 miles apart. People traveling shorter distances more often opt for the automobile, while longer distances bring out the time advantages of air travel.

But within this range, as has so obviously been demonstrated by the demand within the Northeast corridor, people will flock to the rails if comfortable and efficient service is available.

These amendments would require such service except where an affirmative finding is made that it would not serve the public convenience and necessity. As a result service could be begun on such routes as Pittsburgh to Buffalo and Cleveland; Nashville to Memphis; and Detroit to Indianapolis. These are but a few examples of the potentialities of this requirement. Service on these interurban routes, if available and convenient, would surely take many travelers out of their cars. The direct energy and environmental benefits, not to mention the future land use benefits caused by a lesser need for new highways and airports, would be substantial.

Section 2 contains a major change in the Federal commitment to rail passenger service where States or localities want and need such service but cannot afford to institute it without Federal assistance.

Present law requires the State or locality to pay at least two-thirds of the avoidable costs. In no other mode of interstate transportation is the Federal share so low. For all major road construction under the highway trust fund the Federal share varies from 70 to 90 percent. Federal airport development assistance varies from 50 to 80 percent of the costs involved. The House and Senate passed versions of mass transit assistance would provide an 80 percent Federal share. My amendment would change the Federal share of rail passenger service assistance to 66⅔ percent. If this sharing provision is to have any utility whatsoever, the Federal share must be on this level.

The amendment would also authorize specific funds for this assistance. Currently, any Federal assistance under this section would have to come out of Amtrak's general appropriation, thereby potentially impairing service on other routes. This is obviously self-defeating. If a State or locality commits one-third of the needed funding, the Federal Government should stand ready to provide the balance for so necessary a service.

The third and final major change in existing law is contained in section 4 of these amendments. This section contains provisions which would begin to put vacation travellers back on the railroads, which is a service as much needed by the travellers themselves as by our tourist and recreation industry.

Last winter saw the severe effects of the gasoline shortage on the tourist industry. Hearings were held in the Senate on the energy related problems of that industry. However, we also witnessed the tremendous savings in precious gasoline that can be effected by cutting back vacation travel by automobile.

If these savings are to continue on any scale—savings that are critical to our energy independence—vacationers must be provided with a reasonable alternative mode of transportation to recreation areas, such as National parks and shore and mountain resort regions. That alternative is clearly the passenger train.

The amendments I introduce would attack this problem in two ways. First, it would require Amtrak to designate five routes from urban centers to recreation areas on the basis of maximum potential use. Service would be instituted on these routes in 1975. Examples of service that could be provided pursuant to this section are New York City to the Catskill Mountains resort area; Los Angeles to Las Vegas; and Boston to the New Hampshire and Vermont resort regions. Rights of way and trackage—now lying idle with respect to passenger service—exist on many such routes so the costs would be limited to facility improvement and equipment acquisition.

Second, loan assistance would be made available to States and localities, and loan guarantees would be authorized to private groups, for construction and improvement of rail lines to recreation areas. This will certainly encourage expansion of rail service to recreation areas, and it will do so at a minimal cost to the Federal Government. Of course, once service is instituted, the Federal share of operating assistance provided by section 2 would apply.

It is time we began to alter the transportation priorities that have led to our overdependence on the private automobile. Last year, of the $28.2 billion in public fundings for transportation, only one-fourth of 1 percent went to rail transportation. This compares with 86 percent for highways and 10 percent for air transportation. This past year has shown us that the rail passenger system is not dead, it is merely dormant.

It is time we gave it some vitality. We have seen that Amtrak and the Department of Transportation will not do this on their own; legislative initiative is required if rail passenger service is to become a realistic alternative mode of transportation to the private automobile for the majority of Americans.

Mr. President, I ask unanimous consent that the full text of the Rail Passenger Service Amendments of 1974 be 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. 3643

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 "Rail Passenger Service Amendments of 1974."

SEC. 1. Title II of the Rail Passenger Service Act of 1970 is amended by inserting at the end thereof a new section as follows:

"SEC. 203. EXTENSIONS OF BASIC SYSTEM

"(a)(1) The Corporation shall establish, subject to the provisions of subsection (b), rail passenger service on such extensions of the basic system as are necessary to provide the following:

"(A) by July 1, 1974, through service to every standard metropolitan statistical area in the contiguous forty-eight States exceeding one million in population;

"(B) by July 1, 1976, through service to every such standard metropolitan statistical area exceeding five hundred thousand in population; and

"(C) by July 1, 1978, through service to every such standard metropolitan statistical area exceeding two hundred and fifty thousand in population.

"(D) by July 1, 1976, adequate service between all standard metropolitan statistical areas exceeding five hundred thousand in population which are between one hundred and three hundred miles apart.

"(b) The Corporation may preliminarily exclude an extension pursuant to subsection (a), except subsection (a)(1)(A), upon (A) a preliminary finding by the Secretary that the public convenience and necessity does not require such extension, or (B) a preliminary finding by the Corporation that establishment of such service is unnecessary or impracticable. If a finding of impracticability is based on a shortage of equipment, the Corporation shall within 60 days of such finding, place orders for sufficient equipment necessary to institute such service. If either such finding is preliminarily made for any other cause, the Secretary shall call a public hearing, in accordance with the provisions of Section 553 of Title 5, United States Code, in the area or areas directly affected affording all interested parties the opportunity to be heard. Within 60 days after the conclusion of public hearings, the Secretary shall report his findings to the Board of Directors of the Corporation, which shall finally determine whether such extension should be excluded. The Secretary shall report to the Congress in a separate report for each such exclusion explaining in detail the reasons for such finding.

"SEC. 2. Section 403(c) of the Rail Passenger Service Act of 1970 is amended to read as follows:

"(c)(1) For purposes of this section, the reasonable portion of such losses to be assumed by the State, regional or local agency, shall be no more than 33⅓ per centum of the solely related costs and associated capital costs, including interest on passenger equipment, less revenues attributable to such service. If the Corporation and the State, regional or local agencies are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary for decision. In deciding this issue the Secretary shall take into account the intent of this Act and the benefits to be derived from the proposed service.

"(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation, $10,000,000 in fiscal year 1976, $25,000,000 in fiscal year 1977, and $25,000,000 in fiscal year 1978.

SEC. 3. (a) Section 403 (d) of the Rail Passenger Service Act of 1970 is amended to read as follows:

"(d) The Corporation shall initiate not less than two experimental routes each year, such routes to be designated by the Corporation on the sole basis of the demonstrated need and probable use of such service, and shall operate such routes for not less than two years. After such two-year period, the Corporation shall terminate any such route if it finds that it has attracted insufficient patronage to serve the public convenience and necessity, or it may designate such route as a part of the basic system."

SEC. 4. Section 403 of such Act is further amended by inserting at the end thereof the following:

"(e) (1) The Corporation shall study the need for and potential use of routes between major centers of population and heavily used recreation areas one hundred to three hundred miles from such population centers. By July 1, 1975, the Board of Directors shall designate no less than five such routes for service on the basis of demonstrated need and probable use of such service, costs of establishing such service and such other factors as it may prescribe. Such service may be limited to certain days of the week, months of the year, or otherwise as the Corporation finds necessary. Service shall be initiated on such routes as soon thereafter as is practicable, and shall be continued for not less than two years. After such two-year period, the Corporation shall terminate any such route if it finds that it has attracted insufficient patronage to serve the public convenience and necessity, or it may designate such route as a part of the basic system.

"(2) By July 1, 1976, and annually thereafter, the Corporation shall designate one additional experimental recreation route and the provisions of paragraph (1) shall apply to such designation and route in the same manner as applicable to routes designated thereunder, except as specifically provided in this paragraph. Service on routes designated pursuant to this paragraph shall be initiated as soon as practicable after designation.

(f)(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, to purchase evidences of indebtedness and to make loans (which for purposes of this section shall include participation in loans), to any State, or to any local or regional agency, for purposes of capital construction, acquisition, and improvement cost of rail lines and facilities to recreation areas. Any loan provided pursuant to this subsection shall not exceed 70 per centum of the construction, acquisition, and improvement cost necessary to institute service on the proposed route. The amount of loans outstanding at any time pursuant to this subsection may not exceed $50,000,000. There are authorized to be appropriated such amounts as necessary to carry out this subsection.

(2) The Secretary is authorized to guarantee loans made to private borrowers by private lending institutions in connection with construction, acquisition and improvement of rail lines and facilities to recreation areas. The amount of guaranteed loans outstanding pursuant to this subsection, at any time, may not exceed $100,000,000. The Secretary shall prescribe and collect from the lending institution a reasonable annual guarantee fee. There are authorized to be appropriated such amounts as necessary to carry out this subsection.

(3) Funds loaned or the repayment of which is guaranteed under this section shall be used for the purchase or development of land and facilities and for working capital necessary to institute the proposed rail passenger service to a recreation area, and shall not be used for operation or maintenance of any part of the line after an initial start-up period.

(4)(A) Applications for such loans shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall prescribe to protect reasonably the interests of the United States.

(B) Each loan and loan guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate: *Provided, however,* That no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such indebtedness.

(5) The Secretary shall make a finding in writing before making a loan to any applicant under this section, that—

(1) The loan is necessary to institute the desired rail passenger service;

(2) It is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and

(3) the applicant has offered such security as the Secretary deems necessary to protect reasonably the interests of the United States.

(6) (A) Each recipient of financial assistance under this section, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance and such other records as will facilitate an effective audit.

(B) The Secretary, and the Comptroller General of the United States or any of their duly authorized representatives shall, have access for the purpose of audit and examination to any books, documents, and papers and records of such receipts which in the opinion, the Secretary, or the Comptroller General may be related or pertinent to the loans referred to in subsection (f)(1) of the section. The Secretary or any of his duly authorized representatives shall, until any financial assistance received under this title has been repaid to the Secretary, have access to any such materials which concern any matter that may bear upon—

(1) the ability of the recipient of such financial assistance to make repayment within the time fixed therefor; and

(2) the effectiveness with which the proceeds of such assistance is used.

SEC. 5. Section 403 of such Act is further amended by inserting at the end thereof the following:

"(g) The Secretary shall study the need for and potential use of routes between urbanized population centers and airports serving those population centers. He shall identify the routes where such service would most significantly serve the public convenience and necessity and estimate the initial costs of each such route and the probable profitability of each such route. He shall report to the Congress on the results of this study along with his recommendations as to whether the Corporation should provide any or all such service, not later than July 1, 1975.".

By Mr. INOUYE:

S. 3644. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurse practitioners under medicare and medicaid. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, nurses and midwives have played a vital role in the delivery of health services during the early stages of our country's medical history. There have been numerous tales of these valiant women who brave natural and man-made dangers to assist in the delivery of health services. Florence Nightingale and Clara Barton have become part of our folk history.

In remote areas of our country, where a shortage of doctors exists, nurses continue to perform those services which were historically performed by midwives. These services include prenatal and postnatal care, the treatment of many childhood illnesses, preventive health care, and many home health services which are now unavailable from most highly complex medical centers.

Unfortunately, during these days of advanced technical knowledge and highly specialized training, in places where these complex medical centers abound, the nurses have been relegated to the very minor roles of caretakers and administrators. Despite their increased

knowledge and training, these highly skilled professionals are allowed to perform very few services without the direct supervision of a medical doctor. In addition, many nurses spend more hours per week in administrative or clerical roles than in direct patient care. This results in an under-utilization of many qualified professionals with an accompanying over-demand of medical doctors. With doctors performing so many services which could readily be performed by trained nurses, the cost of medicine has sky-rocketed.

In view of the high cost of medical care throughout our Nation, I propose that we now release the nursing professionals from the bondage of the direct supervision of medical doctors and allow them to perform those services for which they have been trained and have proven themselves fully capable of performing. By allowing the nurses to participate more fully in the delivery of home health care and preventive services, the scope of available health care will greatly expand, yet the total cost of these services would be greatly reduced.

In addition to the reduced cost and the expanded services, the all-important personal contact with the patient would greatly increase. This resulting morale boost would decrease recovery time and improve the image of the entire health profession.

To encourage this change toward a less expensive and more effective health care system, I am introducing this bill to amend the Social Security Act to provide for inclusion of the services of licensed nurse practitioners under medicare and medicaid. I hope my colleagues will join me in recognizing the importance and far-reaching implications of this trend in health care and will act to secure an early consideration and passage of this bill.

By Mr. INOUYE:

S. 3645. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation which would amend the Social Security Act of 1972 by authorizing payment for therapeutic services provided by a licensed or certified psychologist.

There presently is a growing consensus that we will soon pass a Comprehensive National Health Insurance bill. I fully support this important development, however, I have been distressed to note that nearly every one of the proposed bills have limited the scope of approved mental health coverage to only those services provided under the supervision of a physician. In taking this position, we have not provided our citizens with a true "freedom-of-choice" to choose the practitioner that they might desire.

We are all aware of the staggering costs of health care in our Nation today. In calendar year 1973, our health expenditures grew to $94.1 billion or 7.7 percent of our Gross National Product. This represented an 11 percent increase over the previous year. The most recent employment figures available further indicate that in 1971, over 4.4 million people were employed in health occupations; this was 5 percent of our civilian labor force and made the health industry the third largest in the Nation. There is no question that today health is a major concern for all of us and I feel it is now time to look much more closely at exactly how we have been utilizing our precious and very expensive health resources.

In the mental health field, psychologists have long possessed recognized expertise. Members of that profession hold positions of major administrative and clinical responsibility including the chief of a State mental health division, heads of hospital units, and chiefs of comprehensive community mental health centers. As a profession they also serve as expert witnesses and on the sanity commissions of our courts. In 47 States and the District of Columbia, psychologists are licensed or certified under statute. In their daily functioning, they simply do not require physician supervision.

In my State of Hawaii, our largest insurance company has recognized psychologists as independent practitioners for the past 3 years. Combining their coverage and that of the Department of Defense's Champus program, approximately 80 percent of our State population have ready access to psychological services. Personally, I have been very impressed by the harmony that exists between our psychological community and its medical counterparts.

In concluding, I would urge my colleagues to support this important measure and by doing so, to insure that in our forthcoming national health insurance program, our constituents will have ready access to mental health services and the freedom to choose the practitioner of their choice.

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 3648. A bill to amend the Urban Mass Transportation Act of 1964 to insure that transportation facilities built and rolling stock purchased with Federal funds are designed and constructed to be accessible to the physically handicapped and the elderly. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TUNNEY. Mr. President, today our public transportation systems are thoughtlessly designed with barriers blocking the handicapped from using them. Those obstacles—small things such as steps and turnstiles which the more fortunate, able-bodied person passes without notice each day—pose an impassable barrier to handicapped persons.

The handicapped possess valuable training and skills. They have both an ability and a desire to learn. Yet, senseless travel barriers prevent many of them from taking full advantage of the economic opportunities of our society. For the Nation as a whole, this is a waste of valuable talent. For the individual, influenced by a society which holds productive activity and personal autonomy in the highest esteem, it can mean a life of despair and self-criticism.

Perhaps even more tragically, while the handicapped have the same need as all of us for social and personal relationships, needless travel barriers can cut off a handicapped person from friends and relatives, plunging him into a life of loneliness.

A transportation system which prevents the physically handicapped from using it discriminates against a population which has an equal right to the full advantage of all the social and economic opportunities offered by the society.

In 1970 Congress recognized that right by enacting section 16 of the Urban Mass Transit Act which declared it to be—

> National policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services.

In 1973, by passing the Federal Aid Highway Act, Congress took the further step of requiring that mass transit projects funded with moneys shifted from Federal-aid highway projects "shall be planned and designed so that mass transportation facilities and services can effectively be utilized by elderly and handicapped persons."

Yet, there is still no uniform provision making a similar requirement of transportation projects otherwise funded by the Federal Government. The legislation I am introducing today would eliminate the gap left by the Federal Aid Highway Act of 1973. This legislation would amend the Urban Mass Transportation Act of 1964 to insure that rolling stock purchased with Federal funds shall be designed and constructed so as to be readily accessible to the physically handicapped and elderly.

I am simultaneously introducing an amendment to the proposed Unified Transportation Assistance Act to insure that if that legislation is passed, there will be accessibility to new mass transit facilities and vehicles for the handicapped.

An Urban Mass Transportation Administration study has found that an estimated total of 13,370,000 handicapped Americans would experience difficulties in utilizing mass transit systems. That is more people than the combined populations of America's three largest cities, New York, Chicago, and Los Angeles. An estimated 5.3 million of these 13,370,000 are unable to use mass transit at all, though they could do so if transit facilities were modified and improved to accommodate them. These 5.3 million Americans are the physically handicapped whose mobility is limited as a result of a chronic or long term medical condition. Included in the 5.3 million are the 1,200,000 arthritics who need wheelchairs, most of the half million Americans who are victims of cerebral palsy, 66,000 paraplegics, 34,000 quadraplegics, and many of our 2,000,000 hemiplegics.

Federal money should not be used to build yet more transit systems which needlessly segregate the handicapped.

If a handicapped person is rich, he can surmount some of his problems by hiring an attendant and by taking taxis, but the vast majority of the handicapped are not only disabled, but poor. Due to poor housing, poor nutrition, and neglected health needs, people who were raised in poverty

account for a high proportion of the disabled. Whereas, 21 percent of the general population live in families with incomes of less than $4,000 a year, over half of the families of employable, but disabled adults live below this poverty line. Also, among the aged who live alone or with nonrelatives, 77 percent have incomes under $2,000 a year, and half of America's handicapped are elderly. Thus, aside from the fact that the handicapped have a congressionally recognized right to equal access to mass transit, mass transit must be made accessible because it is the only tranportation which a vast number of handicapped persons can afford.

Not only would the handicapped be benefited if mass transit were made accessible to them, but our society as a whole benefit as well. The Department of Transportation estimates that 13 percent of the chronically handicapped population of working age, or some 200,000 people would enter the work force if travel barriers in and around metropolitan areas were removed. These are people who have gone through the costly rehabilitation process, who are ready, willing, and able to work, but who are denied employment by our thoughtless designing of transit systems.

Providing transit facilities so that these people could get to work would be an economic boon. Their employment would result in an increase in the sale of goods and services of nearly a billion dollars. This estimate omits increased tax revenues and lower welfare payments. As a result, this dollar estimate is extremely conservative. Furthermore, it does not give any indication of the benefits which would ultimately be derived if the handicapped had access to educational and vocational training. This access is now often denied just by the absence of transit facilities which the handicapped can use along with the able bodied.

Yet another economic benefit of making mass transit accessible to the handicapped is that there would be significantly more revenue riders. This can make an important difference in the income receipts which are crucial for every transit system. Also, a great many of the handicapped travel most often between 9 a.m. and 11 a.m. rather than between 7 a.m. and 9 a.m. Thus, they constitute a traffic market for off-peak hours, hours when transit systems need patrons

Another economic benefit to society is that a barrier-free transit system, as insurance company studies have shown, would result in fewer personal injuries through the elimination of tripping and falling hazards. These hazards are a major cause of accidents to the general public.

Also, another general benefit of having an accessible mass transit system is that such a system would aid all of us who have ever been frustrated in our use of public transportation by the circumstances under which we are traveling.

The improvements needed by the chronically handicapped include elevators allowing access to underground or elevated mass transit stops. They include wider doors, ramps, and gates as an alternative to turnstiles at transit stations. On buses, they include lower floor levels, a lift or ramp at the door, and improved seating configurations.

Such improvements would benefit a skier with a broken leg or an expectant mother. They would benefit the businessman with two suitcases, the shopper trying to carry bulky packages, the child who is too short-legged to climb steps safely, and the mother struggling to guide a toddler through a subway turnstile.

Although the inconveniences experienced by most people will be no more serious than those posed by cumbersome packages or a toddler, the public's willingness to use mass transportation is undoubtedly influenced by just such trying encounters. Clearly, the design and operating changes which could be made to accommodate the chronically handicapped would also improve the quality of transportation for the rest of the population.

That improvement in quality of service, it should be pointed out, would result in an increased demand by revenue patrons. This would mean that not only would the transit user benefit, but the transit system would economically benefit as a result of having more ticket purchasers.

The benefits, then, of rendering mass transit accessible to the handicapped are enormous for society as a whole. The benefits loom especially large, however, when compared to the relatively minimal cost. In my State of California, BART, providing rapid transit for the San Francisco Bay area, has recently begun operation. It is 100-percent accessible to the handicapped. All stations have special elevators. Boarding platforms and train interiors present no obstacles to wheelchair movement. The system cost over $1 billion, yet, it has been estimated that it only cost approximately $8 million to render the entire system accessible.

Buses present a special problem. Presently, fitting a conventionally designed bus to accommodate the handicapped is expensive. BART estimates it will cost $19,500 per bus. BART has voluntarily decided to fit 36 buses it is going to buy so the buses will accommodate the handicapped, demonstrating how important BART thinks it is to make buses accessible. I think that the cost of fitting conventional buses to accommodate the handicappped is too great to force on society as a whole, however.

The Urban Mass Transportation Administration has been developing transbus, though. It is a totally new bus which represents the first basic design change in urban transit buses in more than 15 years. It has been estimated that transbus will accommodate the handicapped with optional equipment which will costly only $1,000 per bus.

Protoypes of transbus will be tested this summer. I think this new bus can reasonably be expected to be in production by June 30, 1977. The legislation I propose today will give local officials buying buses an option of providing alternative services for the handicapped or buying conventional buses fitted to accommodate the handicapped until that date. After June 30, 1977, however, when transbus will be available, buses purchased with Federal money will have to be accessible.

If transbus or any other bus which has practical, reasonable features to accommodate the handicapped becomes available at an earlier date, buses purchased with Federal money will have to be accessible as of that earlier date.

If, on the other hand, after full hearings, the Secretary of the Department of Transportation determines that neither transbus nor any other bus with practical and reasonable features to accommodate the handicapped can be available by June 30, 1977, the Secretary may extend the deadline for buying accessible buses.

There may be no extensions past June 30, 1979, however. It is unreasonable to suppose that development of accessible buses will take any longer than that. If the Secretary grants an extension, he must report his action to Congress and to the General Accounting Office. GAO shall assess the need for the extension and report to Congress. This will assure that any extension is fully warranted.

The legislation I propose today would be a solid step toward full integration of the handicapped. The amendment to UMTA would assure that new federally funded transit facilities would be barrier-free so that both able-bodied and handicapped alike will be able to use mass transit to go to work, to go shopping, to visit family and friends, and to participate fully in the life of the community.

The amendment to the proposed Unified Transportation Assistance Act—UTAP—has the same goal as the amendment to UMTA. It would change UTAP so as to insure that there is not a development of separate, segregated transportation systems for the handicapped as a "substitute" for making new public transportation systems accessible to the handicapped.

Such a development of purportedly "separate but equal" systems as a substitute for making new systems for the general public accessible would be allowed by UTAP as now drafted, and, obviously, could be redundant and costly.

Also "separate but equal" facilities would be a disaster for the handicapped. They desperately desire integration into the mainstream of American life, and it would be a cruel blow to them to have to witness the building of new transit facilities and the purchase of new vehicles which would have built into them the same thoughtless barriers which have prevented them from using mass transit in the past.

Neither my amendment to UMTA nor my amendment to the proposed Unified Transportation Assistance Act would prevent special services for the handicapped such as Dial-a-Ride. Indeed, the amendment to UTAP I am proposing would stop the proposed deletion by UTAP of section 16 (b) and (c) of the Urban Mass Transportation Act of 1964 for the very purpose of continuing to allow the Department of Transportation to set aside money to fund special transportation projects for the handicapped. My amendments would simply prevent such projects from becoming a substitute

for integrating new mass transit facilities and vehicles by making them barrier-free.

It was to the end of furthering congressional intent that the handicapped not be segregated from new public mass transit systems that section 16(d) of the Urban Mass Transportation Act defines "handicapped person" as "any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected." The Unified Transportation Assistance Act, as proposed, would delete that definition. My amendment to UTAP, in the interest of furthering the integration of the handicapped into society, would prevent that deletion.

Both the handicapped and society as a whole would benefit socially, psychologically, and economically from the integration of the handicapped through provision for barrier-free mass transit. I urge the Congress to give immediate consideration to my amendment of the Urban Mass Transportation Act and to insert my amendment of the proposed Unified Transportation Assistance Act into that legislation so we can be sure that all of our people will be able to enjoy the benefits of mass transit.

Mr. President, I ask unanimous consent to include the texts of the bill to amend the Urban Mass Transportation Assistance Act and the amendment to the Unified Transportation Assistance Act at this point in the RECORD.

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

S. 3648

A bill to amend the Urban Mass Transportation Act of 1964 to insure that transportation facilities built and rolling stock purchased with Federal funds are designed and constructed to be accessible to the physically handicapped and the elderly

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(e) The Secretary shall require that any bus or other rolling stock or any station, terminal, or other passenger loading area for use in mass transportation service which is acquired, improved, or constructed in whole or in part, with Federal funds or under authority of Federal law pursuant to a contract or grant agreement entered into after ninety days following the enactment of this subsection be designed and constructed with features to allow utilization by physically handicapped persons and elderly persons with limited mobility.

"(f)(1) With regard to buses only, a Governor or local public body may satisfy the requirement of subsection (e) by providing alternative transportation service for physically handicapped persons and elderly persons with limited mobility. The alternative service provided shall be sufficient to assure that handicapped persons and elderly persons with limited mobility have available mass transportation service in accordance with standards promulgated by the Secretary. Federal financial assistance under sections 103(e)(4) and 142 of title 23, United States Code, and this Act shall be available for the Federal share of the cost of alternative services authorized by this paragraph.

"(2) Except as provided in paragraphs (3) and (4) of this subsection, the alternative service authorized under paragraph (1) of this subsection may be used to satisfy the requirement of subsection (e) only until June 30, 1977, or until such earlier time that buses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility become available.

"(3) The alternative service authorized under paragraph (1) of this subsection may be used to satisfy the requirement of subsection (e) until such date later than June 30, 1977 (but not later than June 30, 1978) as the Secretary determines to be necessary to achieve the availability of buses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility. The Secretary shall make such determination at least ninety days but not more than one hundred and twenty days prior to June 30, 1977, on the record after opportunity for an agency hearing. The Secretary shall report his determination within ten days after making the determination to the Congress and to the Comptroller General of the United States. The Comptroller General shall review the determination and report to the Congress whether, taking into account information available to the Secretary and any other relevant information, he concurs with the Secretary's determination.

"(4) If the Secretary determines that additional time after the date determined under paragraph (3) is necessary to achieve the availability of buses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility, the Secretary may permit a Governor or local public body to satisfy the requirement of subsection (e) by providing alternative service in accordance with paragraph (1) until one year after the date determined under paragraph (3). The Secretary shall make such determination at least ninety days but not more than one hundred and twenty days prior to the date determined under paragraph (3), on the record after opportunity for an agency hearing. The Secretary shall report his determination within ten days of making the determination to the Congress and to the Comptroller General of the United States. The Comptroller General shall review the determination and report to the Congress whether, taking into account information available to the Secretary and any other relevant information, he concurs with the Secretary's determination.".

AMENDMENT NO. 1449

On page 7, line 20, strike out all through page 8, line 6, and insert in lieu thereof the following:

"(c)(1) With regard to buses only, a Governor or local public body may satisfy the requirement of subsection (b) by providing alternative transportation service for physically handicapped persons and elderly persons with limited mobility. The alternative service provided shall be sufficient to assure that handicapped persons and elderly persons with limited mobility have available mass transportation service in accordance with standards promulgated by the Secretary. Federal financial assistance under sections 103(e)(4) and 142 of title 23, United States Code, and the Urban Mass Transportation Act, as amended, shall be available for the Federal share of the cost of alternative services authorized by this paragraph.

"(2) Except as provided in paragraphs (3) and (4) of this subsection, the alternative service authorized under paragraph (1) of this subsection may be used to satisfy the requirement of subsection (b) only until June 30, 1977, or until such earlier time that buses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility become available.

"(3) The alternative service authorized under paragraph (1) of this subsection may be used to satisfy the requirement of subsection (b) until such date later than June 30, 1977 (but not later than June 30, 1978) as the Secretary determines to be necessary to achieve the availability of busses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility. The Secretary shall make such determination at least 90 days but not more than 120 days prior to June 30, 1977, on the record after opportunity for an agency hearing. The Secretary shall report his determination within 10 days of making the determination to the Congress and to the Comptroller General of the United States. The Comptroller General shall review the determination and report to the Congress whether, taking into account information available to the Secretary and any other revelant information, he concurs with the Secretary's determination.

"(4) If the Secretary determines that additional time after the date determined under paragraph (3) is necessary to achieve the availability of busses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility, the Secretary may permit a Governor or local public body to satisfy the requirement of subsection (b) by providing alternative service in accordance with paragraph (1) until one year after the date determined under paragraph (3). The Secretary shall make such determination at least 90 days but not more than 120 days prior to the date determined under paragraph (3) on the record after opportunity for an agency hearing. The Secretary shall report his determination within 10 days of making the determination to the Congress and to the Comptroller General of the United States. The Comptroller General shall review the determination and report to the Congress whether, taking into account information available to the Secretary and any other relevant information, he concurs with the Secretary's determination."

On page 15, line 16, strike out "(a)".

On page 13, strike out lines 19 and 20.

By Mr. PELL:

S. 3649. A bill to amend the Social Security Act to establish a procedure for the prompt payment of social security benefits to individuals whose social security checks have been lost, stolen, or otherwise delayed, and to expedite hearings and determinations respecting claims for benefits under title II and XVIII of the act. Referred to the Committee on Finance.

SOCIAL SECURITY FAIRNESS

Mr. PELL. Mr. President, today, I am introducing "The Social Security Recipients Fairness Act of 1974". The purpose of this legislation is to remedy the long-standing, unjustifiable, and intolerable delays which social security recipients too often face in receiving their due benefits.

Ever since I have been a Senator I have read letters and listened to my constituents describe to me the economically disastrous and psychologically demoralizing experience of an individual citizen, whose regular benefit check has been lost, stolen, or delayed, caught in the middle between three or four social security and

Treasury Department offices. When a check is delayed, and when that delay is compounded by a prolonged and complicated replacement process, the economic effects on the recipient can be cruel indeed.

The low-income recipient, who relies upon the prompt and regular delivery of the check, must go without food, or medicine, or else delay paying rent, the fuel or phone companies, or other business firms.

The middle-income recipient is not necessarily better off: Let me quote briefly from a recent letter I received:

I am having real problems as far as keeping up with my mortgage, and my phone has been shut off because I wasn't able to pay it. Also, I have had to cash in my life insurance to keep us going.

All of this because several checks had been delayed. I am sure that every Senator has, on occasion, picked up the phone to attempt to right a wrong of many months standing. Furthermore, I believe that many of our constituents' experiences with delayed checks and many bouts with a balky disability appeals process go unreported. The faith of Americans in their Government is at an all time low, and the many examples of thoughtless and unresponsive bureaucracy which I have encountered in the pursuit of fairness for these recipients are certainly responsible for a measure of that discontent.

This is not the first time that I have spoken in the Senate about the sluggishness of the Social Security System. On February 7, 1972, more than 2 years ago, I called for reform in the processing of benefit claims, and listed what was then a growing roster of cases which were textbook examples of administrative clumsiness.

Today, I am introducing legislation which reflects my ideas and my evaluation of studies which have focused on the social security claims process. This legislation will not call for a further congressional study of the administrative breakdown; rather, I have based it upon the fact that there are some clearly identifiable instances and locations in which the Social Security System works expeditiously. This legislation requires the Social Security Administration to make its whole system work that way. Nothing could be fairer than that.

I am targeting this legislation to the two problems I see most frequently: First, the problem of the tardy replacement of benefit checks which have been lost, stolen, or otherwise delayed. Second is the problem, and in some regions of this country the tragedy, of the enormous administrative delays in the disability appeals process.

LOST, STOLEN, OR DELAYED CHECKS

The most endemic problem I have seen is the delay in issuing benefit checks when a change in client status occurs or when a regularly issued check is lost or stolen. I have recently worked on several cases which clearly illustrate this problem.

Mrs. F. B. and her daughter live in Providence. Mrs. B.'s husband died in May of 1973, and although she properly notified the Social Security Administration, her claim checks were improperly drafted and made for the wrong amount, for several months. After my office interceded, one check was properly drafted, but the next several reverted to the incorrect amount and wrong recipient name. Again, my office interceded, and again, Mrs. B. went on the merry-go-round of one accurate check, followed by a series of unusable drafts. After my third intercession, the checks stopped completely. In February 1974, the situation was corrected, taking 9 months to solve.

Mr. D. was disabled in May 1972. His benefits were supposed to begin in December, 1972, but, as check after check failed to arrive, Mr. D. contacted my office. An investigation failed to locate Mr. D's file in social security's Baltimore headquarters. To complicate matters, each time a call was made to the Social Security Administration, the earlier contact individual had been replaced, or was ill, or on vacation. Mr. D.'s case ostensibly was placed on "critical," "emergency," and then "special claim" status, but the checks did not come. In February of 1974, Mr. D. began to receive some compensation. That case problem took 14 months to resolve.

When Mrs. Y discovered that her monthly check had been stolen from her mailbox, she correctly reported the theft and requested a substitute. That was in February 1973. After repeated requests had brought no result, Mrs. Y. contacted my office, and I was advised in early October 1973, that a substitute check would be delivered to Mrs. Y. during the third week of that month. By November 15, when no check had been received, I called Social Security again. Mrs. Y finally received a check, hand delivered by a member of the Secret Service, on December 3, 1973. Mrs. Y. is on a totally fixed income. She has no resources to cushion the loss of her money, yet it took the SSA and other agencies 10 months to issue a substitute check.

It is hard enough upon the average family when a check is merely delayed, but the experience of Mr. G. S. of Cranston, R.I., illustrates that it may not help to attempt to straighten out the problem.

Shortly before retirement, Mr. G. S. had inquired regarding his level of benefits, and learned that he would receive approximately $388 per month. His first three checks had not arrived when Mr. S. contacted my office. He had already filed the proper notification forms, and, to complicate matters, his wife's medicare premiums, which should have been deducted automatically from her benefit check, could not be paid. When Mr. S. finally received an official looking envelope and opened it, hoping that it was a check, he learned that the couple's medical insurance coverage had been stopped, because the premiums were not being paid. The local Social Security manager conceded that, with inquiries coming in on the case, the solution might have been delayed. In other words, if Mr. S. had not pointed out that the defaulting of medical insurance was Social Security's fault, he might have been reimbursed faster. Mr. S. has still not received his first check: Social Security has now admitted that they have lost his folders.

These examples clearly illustrate that the present operation of this nonsystem is too rigid to meet the completely justifiable emergency needs of the individual social security recipient. My legislation puts the flexibility that is needed into the social security law, so that no person or family will ever again have to wait for more than 4 days for the replacement of a delayed, stolen, or misplaced social security check.

DISABILITY CLAIM HEARINGS AND APPEALS

If one becomes distressed upon reviewing the sorry performance of the Social Security Administration with regard to lost, stolen, or delayed checks, one must still reserve some measure of astonishment for the discrepancies which mark the disposition of disability claim appeals.

I have conducted a thorough study of the disability appeals process, and I have carefully documented an outstanding problem which deserves immediate attention and rectification.

The process by which a claimant must contest a social security disability determination is long and complex: it can also be a costly and arduous route. This is, unquestionably, an area in which much thought needs to be given to the rights of the claimant, and to the proper role of the Social Security Administration. In the legislation I have introduced today, I have pinpointed one shocking aspect of this appeals process; namely, the length of time it takes from the date an appeal is filed, until a final decision is reached. It has been said that "Justice delayed is justice denied." What then, can we say about an appeals process which is able to be routinely completed in 93 days in one region, but which takes 120 days in the Atlanta region, 206 days in the Chicago region, and worst of all, has recently been taking an average of 226 days to complete in New England? The very important question which is resolved for some of our citizens in 93 days, 3 months on the average, takes more than 7 months, or an average of twice as long to be resolved for others. How can the social security bureaucracy be content when such vital decisions are delayed for months beyond the time which is reasonable and proper for a careful determination?

It is edifying to note here that the Railroad Retirement Board which administers a similar disability insurance system for railroad employees maintains a 3-month average for their hearings and appeals process, regardless of the region in which the claim originated.

Last year more than 68,000 persons requested appeal hearings after they were dissatisfied with initial disability decisions made by the Social Security Administration, 61,000 of those appeals were finally adjudicated. Of that number, 31,467 were reversals, that is, findings in favor of the claimant and in opposition to the earlier disability determination.

This means that of the cases which were appealed, more than half were found to have been improperly decided on the local level. I believe that this statistic, in itself, calls for a thorough reappraisal of the initial decision process. What I find shocking in this situation is

the enormous disparity in regional efficiency in the determination of this issue. Thousands of disabled Americans wait for months because of unnecessary bureaucratic time wasting. Each month means a loss of badly needed income. Each month of waiting longer than is reasonably necessary represents a tragedy.

Furthermore, there are just average figures. A close study of the figures indicates that 20 percent of the cases in the New England region are more than 289 days old. I can compare this sorry record with the Dallas region, the Nation's most efficient in this regard, in which the average age for the one-fifth longest pending cases is only 163 days. I have explored this interregional time lag, and I can find no reason for it other than the fact that some regional offices, my own region among them, apparently believe that they are not responsible for providing adequate service to the average American. I believe that this cavalier attitude is wrong and must be changed, and I have today introduced legislation which will require that standards of efficiency which can be set by one region must become the standards for all of the regional offices.

Title I of my bill expedites the replacement of lost, stolen, or otherwise delayed social security checks. It would allow a recipient who is due a check, but whose check has not arrived 72 hours beyond its due date, to receive a full value replacement check within 24 hours after filing a claim and notice at their local social security office. Under this regulation, there would be no 7- to 9-week or more delay while another check was issued by another department of the Government. There would be no 6-month delay while a computer was reprogramed. Of course, these bookkeeping procedures would still be carried out, but no longer would they be at the expense of the recipient. A recipient who deserved a check would get one, no more than 4 days late, and I believe that this would represent a great improvement.

Title II of my bill modifies the disability appeals process. This title would put time on the side of the individual claimant. It requires that the hearing and appeals process be completed expeditiously. It stipulates that if the process exceeds 110 days, from the date the request for a hearing was filed until the date a final determination was reached, the claimant would be entitled, from that 110th day on, to the full benefit level he or she claimed. Any benefits paid after that day, later found to be invalid as continuing payments for the adjudicated level of disability compensation, would remain the property of the claimant, and would be assessed as a penalty on the appeals system for delaying the decision process.

Of course, and I want to emphasize this point, unnecessary delays which were the responsibility of the claimant, such as missing hearing appointments without a valid reason, would not be considered in the calculation of 110 days.

Mr. President, I believe that compelling reasons exist for the timely and thorough consideration of this legislation. This legislation would put some balance, some fairness, if you will, into the relationship between an individual and the Social Security Administration.

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

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

S. 3649

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 Social Security Recipients Fairness Act of 1974"

TITLE I—REPLACEMENT OF LOST, STOLEN, OR DELAYED CHECKS

Section 205(q) of the Social Security Act is amended to read as follows:

"EXPEDITED BENEFIT PAYMENTS"

"(q)(1) The Secretary shall establish and put into effect procedures under which expedited payment of monthly insurance benefits under this Title will, subject to paragraph (4) of this subsection, be made in the manner prescribed in paragraphs (2) and (3), of this subsection.

"(2)(A) Not later than one day after the date an individual files (with the official and at the place prescribed under regulations of the Secretary) a completed application (described in subparagraph (B)), the Secretary shall certify for payment and cause to be made to such individual the monthly insurance benefit payment alleged in such application to be due to such individual, unless information known to the Secretary indicates that a material allegation made in the application is untrue or for other reasons such individual is not entitled to such benefit payment, in which case, the Secretary shall apprise such individual of such information.

"(B) The application referred to in subparagraph (A) shall contain:

"(i) the name, address, and social security number of the applicant,

"(ii) an allegation that, one or more monthly benefit payments due and payable to the applicant have not been received by the applicant as of the date of the filing of the application, and are at least seventy-two hours overdue, together with the date that each such payment was due,

"(iii) an allegation that the applicant is entitled to such benefit, and,

"(iv) such other data or information as the Secretary shall by regulations prescribe.

"(3) Any payment made pursuant to a certification under this subsection shall not be considered an incorrect payment for purposes of determining the liability of the certifying or disbursing officer.

"(4) For purposes of this subsection, benefits payable under section 228 shall be treated as monthly insurance benefits payable under this title."

SEC. 2. The amendment made by the first section of this Act shall be effective in the case of applications filed and written requests filed, under section 205(q) of the Social Security Act, on and after the first day of the first calendar month which begins more than sixty days after the date of enactment of this Act.

TITLE II—EXPEDITING OF HEARINGS AND DETERMINATIONS

Part A of title XI of the Social Security Act is amended by inserting, immediately after section 1123, the following new section:

"SEC. 1124. (a) In the administration of the programs established by title II and title XVIII, the Secretary shall establish procedures designed to assure that—

"(1) any duly requested hearing to which an individual is entitled thereunder will be held within a reasonable period of time after such hearing is so requested, if such hearing is requested with respect to a determination of the Secretary (A) as to the entitlement of such individual to monthly insurance benefits under title II and title XVIII or the amount of any such benefit, (B) which is described in section 1869(b)(1).

"(2) not later than 110 days after any hearing (described in paragraph (1)) is duly requested, the Secretary will render a final determination on the issues which were the subject of such hearing, or if no final determination of the Secretary has been made at that time, the Secretary shall make payments of benefits to such individual in like manner as if a final determination.

"(3) No payments to an individual shall be made under paragraph (2) for any period after a final determination of the Secretary has been made (after a hearing on the matter) denying the claim of such individual.

"(4) Any payments made pursuant to paragraphs (2) and (3) shall not be considered to be an incorrect payment for purposes of determining the liability of the certifying or dispursing officer who makes or authorizes such payment to be made.

"(5) Any payment made pursuant to paragraphs (2) and (3) shall be nonrefundable and shall remain the property of the individual."

By Mr. DOMENICI:

S. 3650. A bill to authorize the Secretary of Transportation to make certain highway improvements in order to more effectively carry out the purposes of the Navajo Indian irrigation project, New Mexico. Referred to the Committee on Public Works.

Mr. DOMENICI. Mr. President, the Navajo Indian irrigation project, authorized in 1962, is designed to furnish irrigation water over a 10-year period, to 110,630 acres of land, both on and adjacent to the Navajo Reservation in New Mexico. Irrigation of this land will provide a means of self-support for 850 Indian families on the farm units and will create employment for an additional 1,700 families. It is further estimated that the project will provide a substantial part of the livelihood for about 17,000 of the Navajo people directly from the on-farm operations, and for an additional 10,000 people from the agriculturally oriented industries required by the development of the project.

Construction and development of the project are proceeding pretty much on schedule. Both the Congress and the administration, in recognition of the vast potential of this project to benefit the Navajo Nation as well as the entire country, are continuing to make good on commitments made by the Congress by the law enacted in 1962 (Public Law 84-483), which will total approximately $280 million by the time the project is completed.

So far the picture is good and the vast potential I have referred to would seem well on the way to realization. Unfortunately, a situation exists which will severely impede the realization of this potential and drastically diminish its benefits. At the time of the initial authorization, and in fact up until only very recently, this situation had not been recognized as the grave limiting factor it will be as the project is completed and as production from the project becomes a reality.

The situation I refer to is the poor condition and the extremely limited carrying capacity of the highway system in this area. These highways provide the only ground transportation for the Navajo Reservation, and, in fact, the entire Four Corners area.

The existing roads are inadequate to meet the transportation and safety needs of this area today even without the staggering increase in transportation needs that will be generated by the Navajo irrigation project.

Let me cite a few of these figures to illustrate this point:

First. The first 10,000 acres of irrigated land will be ready for planting by 1976. At that time, 8,000 acres will be planted in barley, 500 in potatoes, and 500 in corn. First-year production is estimated at 25,340 tons, or 1,267 truckloads of 20 tons each; and

Second. By the time that this irrigation project is completed, this area will be producing 750,000 tons of agricultural products annually. If all the trucks needed just to transport this amount of produce to market were lined up bumper to bumper, they would stretch over 250 miles. Keep in mind that these figures do not reflect the total amount of traffic associated with this agricultural project. Supply and service facilities, feed lots, and agrabusiness in this area will more than double the traffic associated with marketing the produce alone.

I believe that the Navajo Indian irrigation project in and of itself would present sufficient justification for increased road construction expenditures, but, in addition, the Navajo Tribe would benefit in still another way. At present, the Navajo Nation has leased coal mining rights so that seven coal gasification plants will be constructed and operated on the reservation.

Just as the irrigation project will benefit the Navajos economically, so too will these gasification operations. The first such facility, known as the Burnham Complex, should be in operation by mid-1975. Although this will be one of the smallest, this facility will bring between 800 and 1,000 new families into the area, and generate a payroll of as much as $70 million annually. Construction of the Burnham Complex will require 240 workers, which will include a sizable number of Navajo Indians. The Navajos have also been guaranteed employment opportunities when this facility is in operation.

These seven gasification projects will also insure an increase in income to the Navajo Nation which will accrue from the leasing of coal fields and from royalty payments.

Although these facilities will greatly benefit the Navajos, they will certainly actuate a tremendous increase in traffic flow both on and around the Navajo Reservation.

Again, looking at the Burnham Complex, construction during 1974–75 will entail some 54,000 tons of construction materials and equipment moving into that project site. In this case, however, the project will be severely hampered if the main road into the area is not upgraded. In fact, the use of the word "road" here is perhaps a misnomer. This State Highway 371, for the most part, amounts to little more than an unpaved, rutted trail.

From this illustration, it is obvious that the coal gasification projects will add still greater demands to the Navajo Nation's antiquated highway system, and act to decrease the economic gains which the Navajos will derive from their irrigation project.

Mr. President, the Congress of the United States, representing all the people of this great Nation, must continue to honor the trust relationship our country has to its Indian people. This is a sacred obligation that is no better illustrated than by the creation and follow through on the Navajo irrigation project.

The irrigation project is also an example of another principle that governs the relationship between the Government and Indian people. That principle, Mr. President, is our obligation to help provide the means by which Indian people may achieve true self-determination. The economic and employment benefits to be derived from the irrigation project will go a long way toward realization of self-determination and self-sufficiency by the Navajo Nation, this country's largest Indian tribe.

In view of what we have already committed, Mr. President, in recognition of both these fundamental principles, it would be shortsighted to fail to provide the means for maximum achievement.

The bill I introduce today would provide that means—it would underwrite the expansion and improvement of the highway to meet the growing transportation needs I have outlined above.

However, it will not pay the whole cost of the needed road improvements. The New Mexico State Highway Department has estimated the total cost at $62.5 million. Current plans for allocations of State and Federal highway funds for the next 5 years include only $12.5 million for the roads in question. This bill would authorize $25 million over 5 years, only half of the amount needed to supplement the normal highway funds. The rest will come from the people who stand to benefit: the Navajo Nation, the industries developing the mineral resources of the Navajo Reservation, and the communities served by the roads. This is not wishful thinking; the organization has been set up and some hard talk has already taken place about what needs to be done and who will help pay for it. I am convinced that we will be able to forge a rare partnership of Government and private efforts for the benefit of the entire Nation.

I fully realize that this method of financing highway construction is a highly unusual legislative initiative. But—unique situations frequently require unique initiatives and for the many reasons I have outlined, this is one of those unique situations. We have here the opportunity and indeed the obligation to bring the Navajo irrigation project to fruition with maximum benefits. It also provides an opportunity to increase substantially the Nation's supply of agriculture products and energy, both in such great need not only in this country, but throughout the world. To me, our duty is clear; we mst act and this bill provides the vehicle for effective action. Accordingly, I urge its immediate hearing by the appropriate committee and rapid completion of the legislative process.

Mr. President, I ask unanimous consent that the text of my bill for improving these highway facilities be included in the RECORD.

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

S. 3650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation, after (1) consultation with the Secretary of the Interior and (2) entering into necessary arrangements with the State of New Mexico, shall make such improvements in approximately 200 miles of New Mexico State Highways numbered 44, 666, and 371, as are necessary to provide improved transportation facilities in order to more effectively carry out the purposes of the Navajo Indian Irrigation Project, authorized by Public Law 87–483, approved June 13, 1962 (76 Stat. 96), including industrial development in the area.

Sec. 2. There is authorized to be appropriated out of the Highway Trust Fund for the purposes of this Act not to exceed $5,000,000 for the fiscal year beginning July 1, 1974, and each of the succeeding four fiscal years. Amounts appropriated pursuant to this section shall remain available until expended.

ADDITIONAL COSPONSORS OF BILLS

S. 3492

At the request of Mr. BROCK, the Senator from Oregon (Mr. HATFIELD), the Senator from Wyoming (Mr. HANSEN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 3492, a bill to prohibit discrimination on the basis of sex or marital status in the granting of credit.

S. 3516

At the request of Mr. BROCK, the Senator from Virginia (Mr. WILLIAM L. SCOTT) was added as a cosponsor of S. 3516, a bill to provide for the issuance of special series of postage stamps, in conjunction with the Bicentennial celebration of the United States, depicting the flag of each of the 50 States, Guam, the District of Columbia, Puerto Rico, and the Virgin Islands.

S. 3517

At the request of Mr. BROCK, the Senator from Virginia (Mr. WILLIAM L. SCOTT) was added as a cosponsor of S. 3517, a bill to provide for the issuance of special series of postage stamps for the Bicentennial celebration depicting an historical event or individual for each of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

S. 3525

At the request of Mr. CURTIS, the Senator from New Mexico (Mr. MONTOYA), and the Senator from Colorado (Mr. DOMINICK) were added as cosponsors of S. 3525, to amend Public Law 88–482, of August 22, 1964.

S. 3582

At the request of Mr. RIBICOFF, the Senator from New Mexico (Mr. MON-

TOYA), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 3582, to extend food stamp eligibility for SSI recipients.

SENATE RESOLUTION 340—SUBMISSION OF A RESOLUTION RELATING TO INTERNATIONAL WHEAT AGREEMENT CONFERENCE

(Referred to the Committee on Foreign Relations.)

Mr. HUMPHREY. Mr. President, protocols for the extension of the International Wheat Agreement soon will be coming before the Senate.

Members of the Senate will recall that the Senate ratified the present International Wheat Agreement on July 12, 1971. The protocols soon to come before the Senate extend the agreement for 1 additional year.

The Senate voted 78 to 0 in July of 1971 to ratify the present agreement. A part of the Senate action was to pass Senate Resolution 136, which directed the administration to return to the negotiation table for the purpose of getting reinstated into the agreement provisions concerning pricing arrangements, reference wheats and basing points—points of shipment.

Although the Senate unanimously enacted this sense of the Senate resolution at the time it ratified the present International Wheat Agreement, the administration has done nothing to follow the direction.

Therefore, Mr. President, I am today reintroducing the language of Senate Resolution 136 on behalf of Senator McGEE and myself. It is time that we bring some order to the chaotic international trading situation in wheat—some stability which will assure protection both to producers and consumers.

A meaningful agreement will iron out the fluctuations in the market, assuring farmers of being treated equitably and fairly, and providing consumers adequate supplies of wheat and its products at stable and reasonable costs.

The present agreement has one redeeming feature. It has a Food Aid Convention, under which developed countries have agreed to make contributions of wheat, coarse grains, or products derived therefrom to developing countries.

The United States has a commitment of 1.9 million metric tons under the convention and other developed countries also are participants. But the provisions which have made past wheat agreements practical and useful instruments in the conduct of international trade between both exporting and importing countries do not exist in the present agreement.

The agreement, as it now stands, is a mere statement of the good intention among the major wheat traders of the world. The disturbing aspect of such an agreement is that it does not come to grips with the problems of the trade—problems which inspired the original wheat agreement more than 20 years ago, and which have kept it alive all these years.

Recognizing the shortcomings of the present agreement, its drafters had the good judgment to provide the mechanism through which continuing negotiations could take place to provide needed pricing provisions, reference wheats and basing points—points of shipment. This was accomplished under article 21 of the agreement. Article 21 provides that the International Wheat Council shall examine the questions of prices and related rights and obligations of the signators to the agreement when it is judged that these matters are capable of successful negotiation. The Wheat Council is specifically authorized, under article 21, to request the Secretary-General of the United Nations Conference on Trade and Development to convene a negotiating conference.

That is the purpose of the resolution that I introduce today. It expresses the sense of the Senate that the President should request the International Wheat Council, at the earliest possible date, to ask the Secretary-General of UNCTAD to convene a negotiating conference as provided in article 21 of the IWA.

Reports from a recent conference of the International Federation of Agricultural Producers attended by representatives of more than 40 nations indicate that broad agreement exists for renewing efforts to negotiate meaningful pricing provisions. They recognize that international commodity agreements without minimum price features are little more than statements of good faith. An agreed range of price movement with an established minimum price would help to stabilize the world market and protect all concerned.

International representatives of producers are increasingly mindful that the world is shrinking, both politically and economically. The need to expand world trade in agricultural commodities has, in a real sense, internationalized farmers' problems. No longer can a nation ignore urgent economic concerns of producers in other countries. Where the same crops are grown under different terms and conditions, it is imperative that accord be reached if orderly trade expansion is to continue.

Western European countries are criticized for high price support levels and the maintenance of a policy of price support designed to keep 12 to 14 percent of their population engaged in agricultural production. These policies are promulgated out of political and economic considerations. The U.S. Congress also continues to take action to protect primary producers out of political and economic concerns. Such policies will continue.

The proper route to expanding trade is not trade war, but trade negotiation and agreements.

This Nation—both from a consumer and farmer standpoint—would have benefited greatly during the past 2 years, noted by tight international wheat supplies and the huge Soviet wheat deal, if we had reached agreement on wheat to be traded with some accord on prices.

I ask the Senate to review carefully the course of action I am calling for here today. And I ask my colleagues to look in retrospect over the past 2 years at the advantages a meaningful international agreement would have given this Nation in the management of its wheat sales.

Mr. President, the Foreign Relations Committee report on the protocol, recommending a 1-year extension of the wheat agreement, reiterates the need for negotiations on the provisions of the resolution at the earliest possible time.

I offer this resolution because I believe that the wheat agreement as it comes to the Senate can and needs to be improved upon.

The Senate should not proceed to give its advice and consent to an extension of the agreement, without pointing out the urgent need to correct an obvious deficiency.

Mr. President, the text of the resolution that I am introducing today follows:

S. RES. 340

Resolved, That it is the sense of the Senate that the President should request the International Wheat Council, at the earliest possible date, to request the Secretary-General of UNCTAD to convene a negotiating conference as provided in article 21 of the International Wheat Agreement, concluded at Geneva on February 20, 1971, with a view toward the negotiation of provisions relating to the prices of wheat and to the rights and obligations of members in respect of international trade in wheat.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 339

At the request of Mr. HUGH SCOTT, his name, and the name of the Senator from North Dakota (Mr. YOUNG), were added as cosponsors to Senate Resolution 339, expressing gratitude to Dr. Henry Kissinger for his efforts in the cause of world peace, and confidence in his sincerity, integrity, and veracity.

At the request of Mr. ALLEN, the Senator from Alaska (Mr. STEVENS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. EAGLETON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. DOMINICK), the Senator from Louisiana (Mr. LONG), the Senator from Indiana (Mr. BAYH), and the Senator from Wyoming (Mr. McGEE) were added as cosponsors of Senate Resolution 339, supra.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. NELSON, the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Wyoming (Mr. McGEE), the Senator from Iowa (Mr. CLARK), the Senator from Illinois (Mr. STEVENSON), the Senator from Maine (Mr. HATHAWAY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Nevada (Mr. CANNON), the Senator from Texas (Mr. BENTSEN), and the Senator from Utah (Mr. Moss) were added as cosponsors of Senate Concurrent Resolution 88, relative to national economic emergency.

AMENDMENT OF RAIL PASSENGER SERVICE ACT OF 1970—AMENDMENT

AMENDMENT NO. 1446

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

Mr. MOSS submitted an amendment, intended to be proposed by him, to the bill (S. 3569) to amend the Rail Passenger Service Act of 1970, and for other purposes.

TEMPORARY INCREASE IN THE PUBLIC DEBT—AMENDMENTS

AMENDMENT NO. 1447

(Ordered to be printed, and to lie on the table.)

TUITION TAX CREDIT

Mr. RIBICOFF. Mr. President, I introduce with the distinguished Senator from Colorado (Mr. DOMINICK), the Senators from South Carolina (Mr. HOLLINGS and Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Maryland (Mr. MATHIAS), and the Senator from New Jersey (Mr. CASE), an amendment to H.R. 14832 to provide tuition tax credits for the expense of higher education. The Senate has passed similar proposals three times before, most recently in 1971. Unfortunately the House has each time failed to follow the Senate's lead.

Today the need for this amendment is greater than ever before. College costs have not stabilized since we last acted on this proposal. In fact they increased 5 percent over the past year alone. In the last 5 years the cost of a public college education has risen 26 percent and a private college education 27 percent.

If you want your child to go to an ivy league college, you can expect to spend $5,000 each year. While public college costs are not that high, they are still far from inexpensive. One year at the University of Connecticut, UCLA, Minnesota or Michigan, for example, will cost about $2,000.

I ask unanimous consent that a chart listing the cost of several colleges for 1973–74 be printed in the RECORD at this point.

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

	Undergraduate enrollment	Tuition, fees, room and board	Additional for-out-of staters
Akron University	10,550	$1,195	$960
Alabama University	11,425	1,385	510
Amherst	1,230	4,355	
Antioch	2,450	4,675	
Arizona State	18,900	1,300	890
Arkansas University	10,500	1,350	530
Auburn	13,800	1,375	525
Ball State	16,000	1,665	630
Boston University	12,900	4,267	
Bowling Green	13,200	1,875	1,143
Brigham Young	25,500	1,755	
California University (Los Angeles)	28,610	1,925	1,500
California State (Chico)	10,300	1,358	1,110
Central Michigan	12,200	1,682	640
Cincinnati	18,400	1,914	945
Cleveland State	11,850	1,890	690
Colorado University	16,800	1,787	1,319
Columbia	2,600	4,778	
Connecticut University	16,000	1,795	1,250
Cornell University	11,330	4,765	
Delaware University	11,200	1,670	575
Eastern Michigan	13,000	1,405	848
Florida University	18,500	$1,815	$1,050
Florida State	16,500	1,670	1,050
Georgia University	16,300	1,519	720
Georgia State	12,600	1,657	900
Harvard	54,700	5,025	
Houston University	15,900	1,371	860
Illinois University	24,000	1,811	990
Iowa University	13,200	1,734	630
Iowa State	15,825	1,470	630
Kansas University	14,500	1,486	790
Kansas State	12,800	1,490	590
Kent State	19,500	1,878	1,200
Kentucky University	20,000	1,340	730
LSU	17,000	1,104	630
Mankato State College	11,050	1,293	396
Maryland	24,500	1,793	1,000
Massachusetts University	17,320	1,758	600
MIT	4,700	5,007	
Memphis State	11,550	1,548	720
Michigan University	20,500	1,994	1,564
Michigan State	33,415	1,818	855
Minnesota	42,000	2,048	906
Missouri University	17,100	1,480	1,000
Nebraska	17,000	1,623	1,000
New Mexico University	14,000	1,536	828
New York City (City)	11,800	[1] 116	900
North Carolina University	12,460	1,452	1,575
North Carolina State	10,170	1,442	1,560
North Texas State	10,300	1,368	1,080
Northeastern University	15,000	3,472	
Northern Illinois	20,980	1,648	670
Notre Dame	6,600	3,700	
Ohio State	33,675	2,094	1,050
Ohio University	15,800	2,064	1,200
Oklahoma University	12,200	1,475	1,280
Oregon University	11,850	1,529	1,059
Oregon State	13,000	1,480	1,059
Penn State	38,200	1,995	1,131
Pittsburgh	15,000	2,366	900
Princeton	4,160	4,735	
Puerto Rico University	37,000	865	
Purdue	20,700	1,840	900
Rutgers	13,980	2,024	584
St. John's (New York)	13,000	[1] 2,120	
South Carolina	12,360	1,550	638
South Florida	14,000	1,656	1,050
Southern Illinois University	18,000	1,703	858
Temple University	13,100	2,400	900
Tennessee University (Knoxville)	19,500	1,509	720
Texas University	40,000	1,392	1,080
Texas Tech	20,000	1,226	1,080
Utah University	17,300	1,503	675
Virginia Poly	15,000	1,487	600
Wayne Stage University	15,730	1,668	1,190
Western Michigan University	15,000	1,685	600
Wichita State	13,300	1,398	590
Wisconsin University	21,700	1,688	1,348
Yale	4,900	5,000	

[1] No housing.

Source: Business Week July 7 1973.

Mr. RIBICOFF. The Office of Education has estimated the average cost of a year at a public college in 1973–74 will be $1,492. A year at a private institution for the same period will cost an average of $3,281. At these rates a parent sending a child to college this last fall can expect to spend anywhere from $5,000 to $20,000 before a bachelor's degree is awarded.

Who can afford those prices? Not many people. The very wealthy may be able to absorb these constant increases and the very poor may still qualify for scholarships and grants. The children of the middle class, however, are slowly being eliminated from the college market. Their parents' income is too high for scholarship help, but too low to meet tuition. Unless families are willing to go deep into debt, many young students are going to be prevented from attending the school of their choice.

The Federal student loan programs were designed to help these students, but so far have failed. The combination of high interest rates, insufficient Federal funding and bureaucratic snags have resulted in fewer students receiving loans this year than last year.

The loan programs simply do not provide enough help. As a result, this year, more than ever before, we need to enact a tuition tax credit bill.

Under our proposal a maximum tax credit of $325 would be allowed for each student.

The credit would be computed on the basis of 100 percent of the first $200 of qualifying expenditures for tuition fees, and books; 25 percent of the next $300; and 5 percent of the subsequent $1,000. No credit would be allowed for student costs above $1,500.

The resulting credit would be allowed against the Federal income tax of any person who paid the expense of education for himself or another person at a qualified education institution. Because we believe that students should be allowed to seek the type of higher education they believe suits them best, vocational, technical and business schools as well as colleges, universities, and graduate schools will be covered.

The credit would begin to be phased out when the taxpayer's adjusted gross income reached $15,000. Two percent of the amount by which a taxpayer's adjusted gross income exceeded $15,000 would be deducted from the credit available to that taxpayer. Thus, no taxpayer with an income above $31,250 would be eligible for a credit.

I ask unanimous consent that a chart detailing the distribution of the tax credit be inserted at this point in the RECORD.

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

AVAILABILITY OF TUITION CREDIT BY AMOUNT OF QUALIFIED EXPENSES AND INCOME LEVEL (PER STUDENT)

Qualified expense	Adjusted gross income					
	$10,000	$15,000	$20,000	$25,000	$30,000	$35,000
$100	$100.00	$100.00	0	0	0	0
$200	200.00	200.00	$100.00	0	0	0
$300	225.00	225.00	125.00	$25.00	0	0
$400	250.00	250.00	150.00	50.00	0	0
$500	275.00	275.00	175.00	75.00	0	0
$750	287.50	287.50	187.50	87.50	0	0
$1,000	300.00	300.00	200.00	100.00	0	0
$1,250	312.50	312.50	212.90	112.50	$12.50	0
$1,500	325.00	325.00	225.00	125.00	25.00	0

Mr. RIBICOFF. I cannot emphasize too strongly the need for passage by the Senate and the full Congress of this amendment. While it is not the final answer to the issue of financing higher education, it will allow thousands of American families and students to meet rising college costs. It will mean that the

American dream of higher education does not turn into a modern American nightmare.

AMENDMENT NO. 1448

(Ordered to be printed, and to lie on the table.)

Mr. RIBICOFF. Mr. President, on May 14 Senators MAGNUSON and I as well as a number of other Senators introduced an amendment to H.R. 8217 to repeal the oil depletion allowance. Since that time the Senate leadership as well as the chairman of the Senate Finance Committee have asked that major tax proposals be considered as amendments to the debt ceiling bill. For that reason we are reintroducing our amendment today as an amendment to the debt ceiling bill, H.R. 14832.

Since we introduced our amendment, support has grown for repeal of the depletion allowance.

At this time the following Senators are officially listed as cosponsors of our amendment to H.R. 8217:

Ribicoff, Magnuson, Pastore, Aiken, Bayh, Case, Clark, Hart, Humphrey, Jackson, Kennedy, and McIntyre.

Mondale, Williams, Metzenbaum, Tunney, Proxmire, Nelson, Moss, Hughes, Muskie, Stevenson, Brooke and McGovern.

Every other business can deduct from its gross sales only the actual cost of replacing the goods it sells. Oil companies, however, can deduct 22 percent of their gross revenues from their taxable income, whether or not this deduction bears any relation to the actual cost of replacing the oil sold.

As a result, American taxpayers have been paying the oil companies billions of dollars a year through tax subsidies for the oil industry. The industry saved about $705 million in U.S. taxes in calendar year 1971 because of the oil depletion allowance. It has been estimated that because of rising prices this provision will cost the U.S. taxpayer $2.6 billion in fiscal year 1975.

The Senate will soon be considering a tax cut proposal to stimulate the economy and provide much needed relief for the already overburdened taxpayer. I support this tax cut to help taxpayers regain some of the earning power they have lost through inflation.

I can think of no better way to raise the money to pay for this tax cut for workingmen and women than to remove this special oil interest tax advantage and require the oil companies to pay their fair share of taxes.

The major oil companies' profits are skyrocketing and each of us is paying the price of these profits at the filling station and at tax time.

Look at the record. In the first 3 months of 1974 Exxon's profits were $708 million—39 percent above the same period in 1973.

Texaco's profits rose 123 percent to $589 million. Gulf Oil and Standard Oil of Indiana's profits were up 75 percent. Skelly Oil's profits were up 97 percent. And Occidental's profits were up 817 percent.

It is unconscionable to allow these companies to reap such dividends at the expense of every working American. While the workingman in the lowest income tax bracket pays 14 percent of his income in taxes, four of the largest oil companies paid U.S. income taxes at an average rate of 2.89 percent. Aramco, the Middle-Eastern consortium of giant oil companies paid U.S. taxes at a rate of one-tenth of 1 percent.

Texaco paid 1.7 percent and Mobil 1.3 percent on incomes of $1.3 billion. These tax breaks helped the industry's profits climb 52 percent over last year to their highest levels ever.

Clearly the percentage depletion allowance is costing billions of dollars.

Is it serving any useful purpose? I strongly believe percentage depletion serves no useful purpose.

Depletion allowances were originally enacted to enable oil companies to subtract from their income a suitable amount to cover the loss which occurs as an oil well wears out or exhausts its supply. The original depletion allowance was called cost depletion. The law was based on the cost of what the oil company actually lost. It was similar to depreciation provisions which most businesses utilize. In the 1920's however, the law was changed, with the support of the oil companies, to allow the companies to subtract a set percentage of their income in computing taxes—originally 27½ percent and now 22 percent.

Today the allowance has little to do with actual costs of depletion, is costly, wasteful, misdirected, and discourages the diversification of our energy resources.

1. THE OIL DEPLETION ALLOWANCE IS COSTLY

In calendar year 1971 the allowance cost taxpayers over $700 million. With rising oil prices it is estimated that it will cost the taxpayers nearly $3 billion in 1975. This is because the allowance is based on income. Thus, as prices and profits skyrocket, so does the depletion allowance. Instead of paying more taxes on more income, the oil companies pay less.

2. THE DEPLETION ALLOWANCE IS A WASTE OF MONEY

Most of the benefit of depletion goes to foreign operations and to people who cannot and do not produce oil. A landowner who receives royalties from an oil company gets the benefits of percentage depletion. But this landowner has nothing to do with exploring or drilling for new oil. In 1968 a major Treasury Department study—the CONSAD study—concluded that 42 percent of the depletion allowance goes to such nonoperating interests in domestic production or to foreign oil producers.

3. PERCENTAGE DEPLETION DOES NOT ENCOURAGE EXPLORATION

That portion of the depletion allowance which goes to domestic oil producers does not encourage exploration.

Since only 10 percent of the exploratory wells strike oil, depletion benefits only a small portion of the high-risk drilling. Oil companies prefer to spend money drilling in existing oilfields to be certain of receiving the oil depletion subsidy. The main effect of the allowance is to encourage overdrilling in known oilfields. A producer can use the allowance to wipe out a maximum of 50 percent of net income on a well before tax computation. This means that the biggest benefit of the subsidy goes to the most profitable wells.

The allowance may actually operate to discourage producers from operating less profitable or marginal wells. The stripper well operator, producing less than 10 barrels a day, gets the short end.

He is forced to pump the wells he has while the big companies can close down their marginal wells and skim the cream off their profitable wells. With generous tax laws such as the depletion allowance, the big companies have more money to buy up and gain control of most of the stripper well operations.

4. DEPLETION ALLOWANCE DISCOURAGES DIVERSIFICATION OF U.S. ENERGY RESOURCES

The United States is too dependent on oil. Yet this misdirected tax subsidy discourages the production of cheaper and more abundant sources of energy. First of all, depletion benefits for minerals are based on the value of those minerals in the ground and not in their final processed form. Thereafter, a $7 barrel of crude oil gets the full benefits of the depletion allowance while a $7 barrel of oil made from coal will only receive depletion benefits on the value of the original coal. Since coal costs less than oil, the bulk of the $7 cost of liquified coal lies in processing expenses. These do not qualify for depletion.

At present then, a company producing a $7 barrel of crude oil gets a tax bonus of about $1.30. A company producing the same $7 barrel of oil from coal liquefication would rescue a bonus from the taxpayers of only 10 cents. Those who develop solar energy or a more efficient gas engine would receive no bonus at all.

In sum, the depletion allowance discourages the development of alternative energy resources, provides benefit to producers of foreign oil, pays dividends to foreign and domestic landowners to just sit back and collect royalties. And it gives most of its benefits to the large integrated oil companies and not independents.

I am pleased to note that the Ways and Means Committee has decided to recommend repeal of the percentage depletion allowance. However, the slow phaseout of the allowance contemplated by that committee would have no effect in 1974. Our proposal would return significant revenues to the Public Treasury rather than turning them over to an industry whose profits rose 55 percent in 1973 while the consumer paid the price.

I urge my colleagues to join with me in removing the percentage depletion tax loophole.

AMENDMENT NO. 1450

(Ordered to be printed, and to lie on the table.)

SUPPLEMENTAL SECURITY INCOME ADJUSTMENTS AMENDMENT

Mr. HUMPHREY. Mr. President, on behalf of myself and Senators MONDALE, HATHAWAY, MCGOVERN, TUNNEY, PELL, MONTOYA, ABOUREZK, HART, and RIBICOFF, I am introducing today the supplemental security income adjustments amendment to H.R. 14832, the debt limit bill.

The elderly, the blind, and the disabled have been particularly hard hit by the double digit inflation that has wracked our economy during the past year.

As chairman of the Consumer Economics Subcommittee of the Joint Economic Committee, I have closely followed the staggering increases in the cost of living and have seen how it has affected these people. They have seen the prices they pay for food explode 40 percent, their rents rise by 18 percent, and vital medical care costs jump by 22.5 percent, all during the last 4 years. And these, the most inflationary items in the American market basket, take a much larger portion of the income of the supplemental security income—SSI—beneficiary than of the average American family.

This amendment, which is virtually identical to S. 3339 which I introduced on April 10, would provide an automatic cost-of-living escalator provision to Supplemental Security Income payments.

I believe that its enactment is vital in protecting the purchasing power of SSI recipients from the income reducing effects of inflation.

The protection of the real buying power of benefits received under the SSI program which would result from adopting the proposed escalator is certainly necessary. Congress endorsed this principle when it provided such an automatic cost-of-living adjuster to social security benefits. It is time we extended this income security feature to the estimated 5.1 million Americans who are expected to receive SSI benefits when the program is in full operation. Certainly the 3.8 million elderly poor and the 1.3 million blind and disabled citizens participating in this program require the same protection from inflation as the regular social security recipient.

If the commitment made by Congress, that these people would be guaranteed a certain minimum standard of livng in their adversity, is to have any meaning at all, protection of the buying power of their benefits from a shrinking dollar must also be assured. As I see it, the automatic cost of living escalator for SSI, a concept endorsed by the President, is the proper way to accomplish this objective.

The administration has projected the cost of the SSI escalator for the next 5 years in the appendix to the fiscal year 1975 budget. According to the Office of Management and Budget estimates, it would have no cost in fiscal year 1975, since a legislated increase was enacted, $360 million in fiscal year 1976, $750 million in fiscal year 1977, and the same in fiscal year 1978, and $1,450 million in fiscal year 1979. Of course, estimates of this kind are very tentative, since they are tied so directly to the rate of inflation. But regardless of the exact cost, the estimated first-year spending increase of $360 million would be substantially less than 7 percent of the total cost of SSI in that year. The data in the fiscal year 1975 budget indicate to me that not only is the provision of the cost-of-living escalator for SSI benefits desirable, but it is something that our Nation surely can afford to do.

And, Mr. President, given the existence of the automatic escalator for social security, unless we pass the legislation I am proposing in this Congress, we could end up next year providing increases in social security checks that are, for millions of people, completely offset by a parallel reduction in the value of their SSI check.

Therefore, I believe that in order to truly fulfill our obligation to those in the SSI program, and to prevent an unpardonable hardship on individuals who are provided with SSI in addition to regular social security benefits, the supplemental security income adjustments amendment which I have introduced needs to be enacted.

Mr. President, I ask unanimous consent that the full text of this amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 1450

At the end of section 2, add the following new section:

"SEC. 3. (a) Section 1611 of the Social Security Act (as enaced by section 301 of Public Law 92-603 and as in effect on July 1, 1974) is amended—

(1) in subsection (a)(1)(A), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,752";

(2) in subsection (a)(2)(A), by inserting "(or, if greater, the amount determined under secton 1617)" immediately after "$2,628";

(3) in subsection (b)(1), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,752"; and

(4) in subsection (b)(2), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$2,628".

(b) Part A of title XVI of the Social Security Act (as enacted by section 301 of Public Law 92-603) is amended by adding at the end thereof the following new section:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

"SEC. 1617. (a) Whenever the Secretary, pursuant to section 215(i) makes a determination that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall determine and publish in the Federal Register (together with, and at the same time, as the material required by section 215(i)(2)(D) to be published therein by reason of such determination) the supplemental security benefit rate (as determined under subsection (b)) which shall be effective for the period beginning with the month following the first month that the increase (if any) in benefits payable under title II becomes effective under section 215(i) by reason of such determination by the Secretary.

"(b)(1) As used in this section, the term 'supplemental security benefit rate' means whichever of the following is the greater—

"(A) the dollar amounts (namely, $1,752 and $2,628, referred to in sections 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2)), or

"(B) the dollar amounts (referred to in such sections) which were in effect immediately prior to the most recent increase under this section.

"(2) The supplemental security benefit rate which shall be effective by reason of an increase brought about by the application of subsection (a) shall be such rate, as in effect immediately prior to such increase, plus a per centum thereof equal to the per centum of increase in benefits payable under title II brought about pursuant to section 215(i).

"(c) Section 211(a)(1)(A) of Public Law 93-66 (as in effect on July 1, 1974) is amended by striking "$876" and inserting in lieu thereof 'ar amount equal to 50 per centum of the amount specified in section 1611(a)(A).'

"(d) This amendment shall become effective on July 1, 1974, or (if later) on the first day of the first calendar month which begins after the date of enactment of this amendment."

AMENDMENT NO. 1451

(Ordered to be printed, and to lie on the table.)

SINGLE TAXPAYER EQUITY AMENDMENT

Mr. HUMPHREY. Mr. President, today I am introducing the single taxpayer equity amendment as an amendment to H.R. 14832—the debt limit bill.

This amendment is identical to amendment number 1429 to H.R. 8217, which I introduced on June 10. A discussion of my amendment can be found on page S. 10123 of the June 10 CONGRESSIONAL RECORD.

Mr. President, I ask unanimous consent that the full text of this amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 1451

At the end of Section 2, add the following new section:

"SEC. 3. (a) Section 1 of the Internal Revenue Code of 1954 (relating to rates of tax on individuals) is amended—

(1) by striking out subsections (b) and (c);

(2) by redesignating subsection (d) as (b); and

(3) by striking out so much of subsection (a) as precedes the table therein and inserting in lieu thereof the following:

"(a) "GENERAL RULE.—There is hereby imposed on the taxable income of every individual, other than an individual to whom subsection (b) applies, a tax determined in accordance with the following table:".

(b) Section 2 of such Code (relating to definitions and special rules) is amended—

(1) by striking out subsections (a) and (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

(c) Sections 511(b)(1) and 641 of such Code are each amended by striking out "section 1(d)"; and inserting in lieu thereof "section 1(b)".

(d) Section 6015 (a)(1) of such Code is amended to read as follows:

"(1) the gross income for the taxable year can reasonably be expected to exceed $10,000 ($5,000, in the case of an individual subject to the tax imposed by section 1 (b) for the taxable year); or".

(e) the amendments made by this section shall apply to taxable years beginning after December 31, 1973.

(f) The Secretary of the Treasury or his delegate shall prescribe and publish tables reflecting the amendments made by this section which shall apply, in lieu of the tables set forth in section 3402(a) of the Internal Revenue Code of 1954 (relating to percentage methods of withholding), with respect to wages paid on or after January 1, 1974.

AMENDMENT NO. 1452

(Ordered to be printed, and to lie on the table.)

Mr. CLARK submitted an amendment, intended to be proposed by him, to the bill (H.R. 14832) to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 1454

(Ordered to be printed, and to lie on the table.)

Mr. DOLE submitted an amendment,

intended to be proposed by him, to House bill 14832, supra.

AMENDMENT NO. 1455

(Ordered to be printed, and to lie on the table.)

Mr. BARTLETT (for himself and Mr. BENNETT) submitted an amendment, intended to be proposed by them, jointly, to House bill 14832, supra.

AMENDMENT OF FEDERAL-AID HIGHWAY ACT OF 1973—AMENDMENT

AMENDMENT NO. 1449

(Ordered to be printed, and referred to the Committees on Public Works, Finance, and Banking, Housing and Urban Affairs.)

Mr. TUNNEY (for himself and Mr. CRANSTON) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 3035) to amend title 23, United States Code, the Federal-Aid Highway Act of 1973, and other related provisions of law, to establish a unified transportation assistance program, and for other purposes.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

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

The amendment (No. 1449) reads as follows:

AMENDMENT No. 1449

On page 7, line 20, strike out all through page 8, line 6, and insert in lieu thereof the following:

"(c)(1) With regard to buses only, a Governor or local public body may satisfy the requirement of subsection (b) by providing alternative transportation service for physically handicapped persons and elderly persons with limited mobility. The alternative service provided shall be sufficient to assure that handicapped persons and elderly persons with limited mobility have available mass transportation service in accordance with standards promulgated by the Secretary. Federal financial assistance under sections 103(e)(4) and 142 of title 23, United States Code, and the Urban Mass Transportation Act, as amended, shall be available for the Federal share of the cost of alternative services authorized by this paragraph.

"(2) Except as provided in paragraphs (3) and (4) of this subsection, the alternative service authorized under paragraph (1) of this subsection may be used to satisfy the requirement of subsection (b) only until June 30, 1977, or until such earlier time that buses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility become available.

"(3) The alternative service authorized under paragraph (1) of this subsection may be used to satisfy the requirement of subsection (b) until such date later than June 30, 1977 (but not later than June 30, 1978) as the Secretary determines to be necessary to achieve the availability of buses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility. The Secretary shall make such determination at least 90 days but not more than 120 days prior to June 30, 1977, on the record after opportunity for an agency hearing. The Secretary shall report his determination within 10 days of making the determination to the Congress and to the Comptroller General of the United States. The Comptroller General shall review the determination and report to the Congress whether, taking into account information available to the Secretary and any other relevant information, he concurs with the Secretary's determination.

"(4) If the Secretary determines that additional time after the date determined under paragraph (3) is necessary to achieve the availability of buses designed with practical and reasonable features which allow their utilization by physically handicapped persons and elderly persons with limited mobility, the Secretary may permit a Governor of local public body to satisfy the requirement of subsection (b) by providing alternative service in accordance with paragraph (1) until one year after the date determined under paragraph (3). The Secretary shall make such determination at least 90 days but not more than 120 days prior to the date determined under paragraph (3) on the record after opportunity for an agency hearing. The Secretary shall report his determination within 10 days of making the determination to the Congress and to the Comptroller General of the United States. The Comptroller General shall review the determination and report to the Congress whether, taking into account information available to the Secretary and any other relevant information, he concurs with the Secretary's determination."

On page 15, line 16, strike out "(a)".

On page 13, strike out lines 19 and 20.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961—AMENDMENT

AMENDMENT NO. 1453

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

Mr. HARTKE. Mr. President, today I submit an amendment to S. 3394, the Foreign Assistance Act of 1974. My amendment is identical to the one I introduced last session which was adopted by voice vote in the Senate to the Foreign Assistance Act of 1973. Unfortunately, the Senate receded from the amendment in conference with the House.

Mr. President, as my colleagues are aware, I have long encouraged the legislation of stronger international narcotics control. There is no need to remind the addicts in the world of the mental destruction cognizant with opium and its derivatives.

In light of recent developments between several countries and the United States, the production of opium will increase rather than decrease during the very near future. We must not recede from the gains made to stem the flow of narcotics and dangerous drugs into the United States during the past year.

My amendment to chapter 8 of the Foreign Assistance Act of 1961, 22 U.S.C. 2291, will not terminate assistance to any particular country. It will only clarify the law as written; setting forth a clear mandate to those countries where illicit opium and its derivatives are transported, produced, distributed, and manufactured that adequate steps are to be taken in coordination with the Department of State.

My proposal clarifies the intent of Congress by calling upon the President to make an affirmative finding that each country is taking adequate steps to control illicit opium. The Secretary of State shall set forth the measures which constitute a good faith effort to control illicit opium and its derivatives.

Such measures may reflect the individuality of any country, but must reflect: The enactment of criminal laws controlling illicit opium; a viable enforcement agency; the vigorous enforcement of the criminal laws; the full cooperation of the country with the Department of State; the establishment of border interdiction procedures; the destruction of seized illicit opium; and the establishment of controls for legal opium.

Mr. President, my proposal does not engage in foreign policy, but merely sets forth the intent of Congress to the President that unless countries are as concerned about the illicit flow of narcotics as is the United States, this country should not support their endeavors while they bankrupt the fabric of America.

Both treatment and law enforcement officials in the United States are becoming increasingly concerned with the sizable volume of dangerous drugs reaching our shores. While I do not believe my amendment should be extended to other dangerous drugs until evidence becomes available that the governments of other countries are not taking decisive action to curtail the transportation and manufacture of such drugs into illict channels leading to the drug traffic in the United States, we may want to include the control of drugs other than opium and its derivatives in the near future.

Mr. President, I ask unanimous consent that the 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. 1453

At the end of the bill, add the following new Title:

TITLE V

INTERNATIONAL NARCOTICS CONTROL

SEC. 11. Chapter 8 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291), as amended, relating to international narcotics control, is further amended

(1) by inserting in section 481 "(a)" immediately after "International Narcotics Control.—";

(2) by inserting in section 481 "(b)" immediately after the first sentence and before the beginning of the second sentence which reads, "In order to promote";

(3) by striking out of section 481 the fourth sentence to the end which begins with "The President shall suspend" and inserting in lieu thereof:

"(c) The President (or his delegate) shall cause to be suspended all foreign assistance, tangible or intangible, including but not limited to gifts, loans, credit sales, or guarantees to each country, except as provided in (b) of this section, when such aid is rejected by the Congress in accordance with subsection (b) of section 482 of this chapter.";

(4) by striking "SEC. 482.", and inserting in lieu thereof "SEC. 483."

(5) by inserting the following:

"SEC. 482. (a) The President shall make an affirmative finding that a country is taking adequate steps, as set forth in (c) of this section, to control the production, distribution, transportation, and manufacture of opium and its derivatives within ninety days of the enactment of this section and each year thereafter, which finding shall be submitted to the Congress the first day of June of each year.

"(b) Within ninety days following the submission of such affirmative findings, the Congress may adopt a concurrent resolution rejecting such findings as to any or all countries, whereupon the President shall immediately suspend all foreign assistance to such country in accordance with section 481 of this chapter.

"(c) The Secretary of State, after coordination and consultation with all other departments or agencies involved with the control of the production, distribution, transportation, and manufacture of opium and its derivatives, shall set forth those measures which constitute a good faith effort to control illicit opium and its derivatives. Such measures may reflect the individuality of a country, but shall include the following:

"(1) the enactment of criminal laws controlling the production, distribution, transportation, and manufacture of opium and its derivatives;

"(2) the establishment of a viable agency to enforce criminal laws controlling the production, distribution, transportation, and manufacture of opium and its derivatives;

"(3) the vigorous enforcement of criminal laws controlling the production, distribution, transportation, and manufacture of opium and its derivatives;

"(4) the full cooperation of such country with all United States departments or agencies involved in the interdiction of the supply of illicit opium and its derivatives, into the United States;

"(5) the establishment of border procedures for the interdiction of opium and its derivatives, out of or into such country;

"(6) the destruction of all illicit opium and its derivatives after its evidentiary use has expired; and

"(7) the establishment of detailed procedures for the control of all legal production, transportation, distribution, or manufacture of opium and its derivatives.".

HEARING ANNOUNCEMENT ON WILDERNESS BILLS

Mr. JACKSON. Mr. President, I wish to announce a hearing by the Public Lands Subcommittee of the Interior and Insular Affairs Committee on sundry wilderness bills to be announced later.

This hearing will be held on June 24 at 10 in room 3110, Dirksen Senate Office Building. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Steven P. Quarles, special counsel, at 225–2656.

HEARING ANNOUNCEMENT IN S. 3628

Mr. JACKSON. Mr. President, I wish to announce a hearing by the Public Lands Subcommittee of the Interior and Insular Affairs Committee on S. 3628, a bill to amend the Wild and Scenic Rivers Act of 1968 by designating the Illinois River and its tributaries as a potential component of the National Wild and Scenic Rivers System.

This bill is in addition to Public Land bills previously announced.

The hearing will be held on June 20 at 10 a.m. in room 3110, Dirksen Senate Office Building. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Steven P. Quarles, special counsel, at 225–2656.

NOTICE OF HEARING ON EGG RESEARCH AND CONSUMER INFORMATION ACT

Mr. ALLEN. Mr. President, the Subcommittee on Agricultural Research and General Legislation of the Committee on Agricultural and Forestry will hold a hearing Friday, July 12, on H.R. 12000, the Egg Research and Consumer Information Act. The hearing will begin at 9:30 a.m. in room 324 Russell Office Building. Anyone wishing to testify should contact the committee clerk as soon as possible.

NOTICE OF HEARING ON H.R. 11559

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Territories and Insular Affairs on June 19, 1974, at 10 a.m. in room 3110 Dirksen Senate Office Building, on the following bill:

H.R. 11559, to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

NOTICE OF HEARING ON S. 1244

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation, at 10 a.m. on July 11, 1974, in room 3110 Dirksen Senate Office Building, on the following bill:

S. 1244, to authorize the conveyance of certain lands in the District of Columbia to the Greater Southeast Community Hospital Foundation, Inc.

ADDITIONAL STATEMENTS

QUESTIONS OF JUSTICE

Mr. FANNIN. Mr. President, there is a venomous attitude among many members of Congress and prevalent in the press of Washington that threatens the future of our country. Now this venom is threatening even the efforts of our government to secure world stability and peace.

Last week the media performed disgracefully and irresponsibly when reporters subjected Secretary of State Henry Kissinger to their obsession with the triviality of the Watergate inquisition.

After this news conference the reporters were gleeful that they had been able to divert the discussion from the Mideast situation and that they were able to prevent any meaningful discussion of the larger issues of world peace.

Whether Mr. Kissinger instigated or simply cooperated in necessary national security wiretaps 5 years ago is inconsequential. That any members of the press should believe this more important than world peace is incredible.

Mr. President, the New York Times this morning carried an article by Special Presidential Consultant Patrick J. Buchanan. In this article Mr. Buchanan makes some very good and valid observations concerning the poisoned atmosphere in Washington. I ask unanimous consent that this article be printed in the RECORD.

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

"MR. NIXON IS DOWN AND HYPOCRISY IS KING IN THE NATIONAL CAPITAL"

(By Patrick J. Buchanan)

WASHINGTON.—Richard M. Nixon, President of the United States, has been named an unindicted co-conspirator by the unanimous vote of a grand jury in the nation's capital, Washington, D.C. Sounds impressive and ominous.

Now the President's lawyers have asked the Supreme Court to decide the constitutional question of whether the grand jury had the right to name him as an unindicted co-conspirator in a criminal proceeding. They also plan to argue that the evidence on which the Watergate grand jury acted was "totally insufficient" to name him a co-conspirator.

What went into the production of that headline—so deleterious to the President—"Jury Linked Nixon to Cover-Up"—variations of which appeared prominently in almost every newspaper and news magazine in America? What "linked" this President to the Watergate cover-up, and why?

Well, the grand jurors who voted 19 to 0 to name this President were drawn from a pool of residents of the nation's capital and environs, the most anti-Nixon city in the United States.

While the District of Columbia was giving an astonishing 78 per cent of its votes to George McGovern and Sergeant Shriver, elsewhere in America the pair was buried beneath the greatest avalanche of ballots in the history of the Democratic party.

Only a single member of that 23-member grand jury was a Republican. Seventeen of the 23 were black—members of a racial minority that voted, nationally, upwards of 10 to 1 against the President, a minority whose political leaders have repeatedly characterized Richard Nixon and his Administration as bigoted and racist.

Such was the composition of the Watergate grand jury. And who were the prosecutors who gathered and presented the selected evidence? They were Archibald Cox's men. Seven of the first eleven senior appointments to the Watergate special prosecution force—Ruth, Vorenberg, Heymann, Neal, McBride, Merrill and Cox himself—had histories of close political or professional association with the brothers Kennedy.

Had Martin Luther King been indicted for "sedition" by a grand jury in Plaquemines Parish, La., by prosecutors formerly associated with the late Leander Perez, The New York Times might have viewed that charge with the same skepticism with which many

have greeted this particular grand jury's naming of Richard Nixon.

The prosecutors have contended that their quarry has been justice all along. But the circumstantial evidence mounts that the true quarry is Richard Nixon and his men. H. R. Haldeman was indicted for perjury by misplacing the comment "it would be wrong" by no more than eight minutes in the conversation of March 21, 1973. While John Dean's repeated and critical misplacing of the discussion of "hush money" by eight days—from March 13 to March 21—was passed over as honest error.

When Dwight Chapin was convicted for the felony of perjury for not telling the truth about his knowledge of a misdemeanor, the members of the prosecution staff, gathered in court, cheered and embraced.

When John Mitchell and Maurice Stans were proved innocent of the Vesco indictment by a petit jury, outside of Washington, reporters characterized the mood at the special prosecutor's office here in Washington as one of gloom and despair. Why should that be, if the men were exonerated after a fair trial?

Mr. Nixon is down and hypocrisy is king in the national capital.

Charles Colson pleaded guilty to having leaked derogatory information about an individual under indictment—and faces potential disbarment and a possible prison sentence for his offense.

Meanwhile, the Watergate committee, chaired by the great constitutionalist, Senator Sam J. Ervin Jr., is a veritable gusher of malicious leaks against innocent and indicted alike in the Watergate affair, even as the same publications that vilify Mr. Colson for his leaks about Daniel Ellsberg reap handsome profits from publishing every rumor and report about the Watergate indictees.

Strange how ineffectual the committee counsel Samuel Dash can be when the targets of the leaks are Mr. Nixon's men—and how effective an investigator he turned out to be when the target of the leak was Prof. Sam Dash himself.

When an anonymous staffer was quoted in the counterculture tabloid, Rolling Stone, as having said that Sam Dash was an "egomaniac," the professor proved a veritable Gletkin* in pursuing and punishing, within hours, the offending staffer.

No Congressional committee staff in history has managed a more deplorable record of violating its own rules of confidentiality, and systematically savaging the reputations of its witnesses, than the majority staff of Sam Dash.

Their claim to be the arbiters and authors of a new code of political ethics has passed from being hypocritical to being hilarious. Given the reckless disregard for the rights and reputations of witnesses, Mr. Dash's treatise on ethics should be accorded the same reception as a treatise by Madame de Pompadour on chastity.

We live in strange times: Henry A. Kissinger, the American Secretary of State, is being called upon to answer publicly—not for the wisdom of the Paris concessions that brought disengagement in Vietnam, not for the negotiated agreement on strategic arms with the Russians, not for the diplomatic opening to Peking, nor détente with the Russians, not for his diplomatic triumph in the Middle East. No, Henry Kissinger is being dragged into the dock to answer the historic question of whether, in the use of a handful of wiretaps five years ago, his operative verb should have been "recommended" instead of "referred."

And what of the President of the United States? Apparently, he will not be judged in impeachment proceedings for great questions such as the constitutionality of his clandestine decision to use American air power against enemy-occupied Cambodia, a decision of moment and controversy that may have cost thousands of enemy lives and saved thousands of American lives.

No, the impeachment of the President, at this writing, is more likely to hinge on such questions as what day in March of 1973 was it that John Dean told him that Gordon Strachan might have known what the convicted Watergate buggers had been up to.

One historian has observed that an unmistakable sign of a declining nation or civilization is an exaggerated emphasis by its intellectuals upon the trivial, the insignificant and the inane—to the exclusion of matters crucial to the survival of the state. Under such a criteria, the nation qualifies.

* Gletkin, one of the principal characters in Arthur Koestler's novel, "Darkness at Noon," was the Soviet Communist party official who was the relentless interrogator of the protagonist.

THE FIELD MUSEUM

Mr. STEVENSON. Mr. President, the Field Museum of Natural History in Chicago is this year observing its 80th anniversary.

The Field Museum exhibits and educational programs have enriched the lives of millions of schoolchildren, and its vast collections have brought scholars and scientists from many nations to Chicago for advanced studies and research. In sum, the Field Museum is a place where scientists have extended the boundaries of man's knowledge, and where millions of visitors have explored their relationship to the world around them.

On June 25, the Field Museum will celebrate its anniversary with rededication ceremonies honoring the many benefactors who have contributed to the institution's growth and to the attainment of its eminence. This occasion will also serve to encourage public support for the museum's current $25 million capital campaign which will make possible the first major renovation of the building occupied by the museum for the past half century.

Mr. President, I ask unanimous consent that a resolution adopted by the board of trustees of the Field Museum of Natural History be printed in the RECORD.

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

RESOLUTION

Whereas, on June 2, 1894, Field Museum of Natural History opened to the public for the first time, then occupying quarters in Jackson Park (now the Museum of Science and Industry);

And whereas, Field Museum collections were moved from Jackson Park in 1920 to the Museum's present and permanent home in Grant Park;

And whereas, notwithstanding the generosity of its early benefactors, Field Museum, like many other institutions serving the public, has in recent years experienced major need for substantially updating its half-century old facilities, and accordingly supported legislation in the Illinois General Assembly (enacted June 1971) authorizing the Chicago Park District to issue $30 million in bonds for capital improvements to the six museums located on Park District lands;

And whereas, the Board of Trustees of Field Museum in September of 1971, responded to the General Assembly's enabling legislation by announcing a three-year, $25 million capital campaign for renovation of Field Museum, providing that $12.5 million of this amount would be forthcoming through private gifts from corporations, foundations, and individuals with a like amount to be matched by Park District bond issues;

And whereas, private gift response for capital purposes has now reached nearly $11 million, enabling the Museum to carry forward many of the vital projects necessary for updating of its facilities;

And whereas, many gifts of large and small amounts have contributed to the success of this milestone effort to completely renovate a major cultural institution while preserving its most noteworthy architectural integrity and while continuing its important programs of collection, research, education and exhibition without interruption;

And whereas, this cultural institution on June 2, 1974, will commemorate its 80th anniversary of service to the community and the nation;

Now, Therefore, Be it *resolved* by the Board of Trustees of Field Museum of Natural History that the month of June 1974 shall be observed as "Re-dedication" month for Field Museum and shall be the occasion for opening the building's original cornerstone in order to place within it documents commemorating the first major renovation of Field Museum's permanent facilities which it has occupied for the past 53 years, and shall serve to call attention to the need for general support from the community for the successful completion of the Museum's Capital Campaign.

Passed March 18, 1974.

BLAINE J. YARRINGTON,
President.

JOHN S. RUNNELLS,
Secretary.

RUDYARD KIPLING

Mr. AIKEN. Mr. President, when I was a very small boy, a famous poet lived in our community in Vermont.

One of his most famous poems, and one of my favorites, was entitled "If."

Unfortunately, Rudyard Kipling was unable to accept all the advice incorporated in this poem, reportedly because of differences with his in-laws, and after 5 years gave up his Vermont residence and moved back to England, where he lived the rest of his life.

However, this poem "If" is as applicable today as it was three-quarters of a century ago.

I think it would be very helpful for Members of Congress, as well as high officials of the executive branch, to read Kipling's advice carefully, and so I ask unanimous consent to have it printed in the RECORD.

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

IF

(By Rudyard Kipling)

If you can keep your head when all about you
Are losing theirs and blaming it on you;
If you can trust yourself when all men doubt you,
But make allowance for their doubting too:

If you can wait and not be tired by waiting,
Or being lied about don't deal in lies,
Or being hated don't give way to hating,
And yet don't look too good, nor talk too wise:
If you can dream—and not make dreams your master;
If you can think—and not make thoughts your aim,
If you can meet with Triumph and Disaster
And treat those two imposters just the same,
If you can bear to hear the truth you've spoken
Twisted by knaves to make a trap for fools,
Or watch the things you gave your life to, broken,
And stoop and build 'em up with worn-out tools;
If you can make one heap of all your winnings
And risk it on one turn of pitch-and-toss,
And lose, and start again at your beginnings
And never breathe a word about your loss;
If you can force your heart and nerve and sinew
To serve your turn long after they are gone,
And so hold on when there is nothing in you
Except the Will which says to them: "Hold on!"
If you can talk with crowds and keep your virtue,
Or walk with Kings—nor lose the common touch,
If neither foes nor loving friends can hurt you,
If all men count with you, but none too much;
If you can fill the unforgiving minute
With sixty seconds' worth of distance run,
Yours is the Earth and everything that's in it,
And—which is more—you'll be a Man, my son!

UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE, DREXEL UNIVERSITY, COLGATE UNIVERSITY, UNIVERSITY OF CINCINNATI, AND CATAWBA COLLEGE CONFER HONORARY DEGREES UPON SENATOR SAM J. ERVIN, JR.

Mr. INOUYE. Mr. President, our colleague, Senator SAM J. ERVIN, JR., made commencement addresses at the 1974 commencements of the University of North Carolina at Charlotte, Drexel University, Colgate University, the University of Cincinnati, and Catawba College. At these commencements, these institutions of learning conferred honorary degrees upon Senator ERVIN.

I ask unanimous consent that the citations accompanying the awarding of these degrees be printed in the RECORD.

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

CITATION—THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE, SAMUEL JAMES ERVIN, JR.

Samuel James Ervin, Jr.: From the lee side of Hawksbill and Table Rock came this man who moved to the windward side of national events. Graduate of the University of North Carolina at Chapel Hill and the Harvard Law School, he became known at the courthouse and the statehouse as a man of keen perception, intellect, depth and dedication. He moved to the United States Senate as a champion of the nation's Constitution, insistent that its guarantees of individual liberties be preserved and implemented. More at home in the law library than in the limelight, he nevertheless stepped forward in a time of crisis. When it seemed there was little integrity left, his statesmanship captured the nation's imagination. His dedication to the principles upon which his country was founded earned him the sobriquets of "last of the founding fathers" and "Uncle Sam." He was unwilling to let pass, without challenge, inroads upon the traditional separation of governmental powers. Raconteur par excellence, he has selected wisdom from mountain folkways, the Bible and Shakespeare to the edification and delight of us all. To him, the University of North Carolina at Charlotte proudly awards the degree of Doctor of Laws.

SAMUEL JAMES ERVIN, JR., DOCTOR OF LAWS, HONORIS CAUSA

"In our time the destiny of man presents its meaning in political terms," Thomas Mann has said. The United States Senator whom we honor today has reawakened the American conscience, stirring us out of complacency by recalling to us a heritage of democracy based on equal application of, and protection under, the law.

A man of reason and compassion, wit and high seriousness, he has devoted his judicial and political career to the preservation of individual freedoms as contained in the Bill of Rights, thus truly deserving to be titled "the last of the founding fathers." His moral vision and thoughtful actions have provided a model for good government in its broadest sense—that which takes into consideration "the greatest good for the greatest number." The legislation he has inspired—reform of the bail system for indigent defendants, revision of the Uniform Code of Military Justice, limiting the use of lie-detector tests, etc.—has steadily advanced the cause of American civil liberties. A seeker after truth, this Senator has consistently adhered to his convictions regardless of the public controversy they may elicit.

". . . he hath so planted his honours in their eyes, and his actions in their hearts, that for their tongues to be silent, and not confess so much, were a kind of ingrateful injury." Senator Sam J. Ervin, it is with these words of Shakespeare that Drexel University confers upon you the degree of Doctor of Laws, honoris causa.

SAM J. ERVIN, JR., DOCTOR OF LAW

Colgate University is privileged to honor one of the most unusual and distinctively American statesmen of our time. We salute the distinguished leadership of Senator Sam Ervin, of North Carolina.

Senator Ervin's ability to see the main issue in complex circumstances reassures a nation beset with doubt. At a time when betrayal of the public trust has impugned our political faith, his exemplary commitment to our democratic creed lists public confidence. To a citizenry alarmed by apparently sordid abuse of official power, his recourse to our constitutional remedies confirms the Rule of Law in America. Symbolizing the triumph of public virtue, Sam Ervin has become a modern American folk-hero.

This most recent role is a fitting capstone to the Senator's long and notable career. Spanning more than half a century, and reaching from his hometown of Morganton, North Carolina, to the nation's Capitol, his record of service is an inspiring model of dedication to the public weal. As a much decorated soldier in World War I, as a respected lawyer in his community, as legislator and judge in his state, as congressman and senator in Washington, he has risen steadily to national and international eminence.

Senator Ervin's stature in the Congress is the product of his extraordinary personal abilities and character. His sagacity and integrity have earned him the esteem of colleagues and constituents along a wide political spectrum. Renowned for his scholarly knowledge of the Constitution, and devout reverence for its principles, he is the Senate's recognized authority on the law of the land.

The cause of individual freedom has inspired Senator Ervin's most impassioned engagements. Zealous in his defense of personal liberty he has aggressively championed the citizen's right to privacy, the separation of church and state, and the people's "right to know." His special solicitude for the plight of the powerless has produced landmark protections for the rights of American Indians and the mentally ill. He has helped to fortify numerous ramparts against the encroaching claims of official prerogative.

Yet his labors are leavened by his warmth, wit, and inimitable style, endearing the Senator to an admiring nationwide audience. Eloquent orator and engaging as a raconteur, he graces public discourse. His repertoire of quotations from the Great Books illumines contemporary concerns with the wisdom of the ages. Beyond displaying erudition, they serve also to remind us of the timeless "relevance" of classical learning.

We proudly join in the nation's acclaim and gratitude for this faithful guardian of our most precious traditions.

Mr. President, it is an honor and a privilege to present Sam J. Ervin, Jr. for the degree of Doctor of Laws, *honoris causa*, from Colgate University.

JUNE 9, 1974.

Sam J. Ervin, Junior, whose native Carolina wit and wisdom have spiced and enhanced a nation's appetite for the orderly processes of the law.

A United States Senator of significance since 1954, his name became a by-word and his features became universally known and recognized during the months of investigation into high federal government management and operations by the Select Committee of the Senate which he chaired. His probing questions and his strong reliance and insistence on the integrity of the law helped to elevate a Senate hearing into a national classroom for the examination of beliefs and philosophies about the American system of government. He has served as a state legislator in his native state, as a judge of Criminal and Superior Courts, as a member of the U.S. House of Representatives and as a Senator for twenty years. In this latter capacity, he has served as chairman of the Committee on Government Operations and on its subcommittees on Constitutional Rights, Separation of Powers and Revision of Codification of Laws. He has been a delegate to the Democratic National Convention in four presidential years. He served with distinction with the First Infantry Division in France during World War I, receiving the Purple Heart with Oak Leaf Clusters and the Silver Star among his numerous citations. He has been honored on numerous occasions by Universities, by his lifelong friends in Morganton, North Carolina, by his church and by patriotic and political organizations. Retiring from the Senate in 1974 at the pinnacle of his career, he becomes a notable senior statesman on the American public scene.

By virtue of the authority vested in me as President of the University of Cincinnati, I hereby gladly confer upon you, Sam J. Ervin, Jr., the Degree of Doctor of Law, honoris causa.

WARREN BENNIS, *President*.

CITATION—CATAWBA COLLEGE, HON. SAM J. ERVIN, JR., DOCTOR OF LETTERS

President Shotzberger: I have the honor to present for the degree Doctor of Letters—

The Honorable Sam J. Ervin, Jr., United States Senator.

An acknowledged leader in the United States Senate, Senator Ervin has brought honor, scholarship and integrity to our political life. He has served the nation well and has demonstrated his great faith in God and the Constitution of the United States.

Born in North Carolina, Senator Ervin became a Lawyer, a Soldier, a North Carolina Supreme Court Justice, a State Representative, a Congressman and a United States Senator. For twenty years, Senator Sam has served his state and his nation and has distinguished himself as the leading authority of the United States Constitution, as well as a man of great warmth, wit, and knowledge.

Held in the highest esteem by his friends, supporters, and fellow legislators, Senator Sam has chosen to retire from the Senate and to return to his beloved North Carolina.

With pleasure I present for the degree Doctor of Letters, The Honorable Sam J. Ervin, Jr.

THE LIVESTOCK CRISIS

Mr. CURTIS. Mr. President, I believe that American consumers have a great deal at stake in connection with the crisis in the livestock industry. If producers go out of business or if even they cut down their operations because of the losses being sustained, we are going to be short of meat and what we do have is going to be very high priced.

We are facing a very tough situation. I believe that consumers should be interested in seeing an improvement in beef and pork prices to the producer and I think all segments of the industry—retailers, packers, producers—must get together and cooperate with the Government to promote greater consumption of meat and have a better distribution of the proceeds from the sale of the meat over the retail counter. I think this is important.

In a meeting with the President last week, Senator DOLE and I suggested a White House Conference on Livestock. I am pleased that such a meeting—to bring together all these interested parties—has been scheduled for next Monday.

Also on Monday, the Senate Agriculture Committee will hold a hearing on legislation introduced by myself and other Senators to provide guaranteed loans to allow many producers to stay in business who might otherwise fall by the wayside.

We have also made a request that import quotas be reinstituted. I am hopeful about this. I think it is very important. But all American people have a stake in this matter. We must do something to get the cattle industry back on the track and again become a profitable business.

Like all our citizens, Mr. President, livestock producers are feeling the effects of inflation and high interest rates. However, while the income of most Americans is remaining stable or being adjusted upward with cost-of-living increases—cattlemen have seen the price of their animals drop by more than 20 percent in 6 months and hog prices have dropped 45 percent.

The beef industry alone has lost almost $2 billion since last October with losses of a similar magnitude by producers of pork, poultry, and milk.

The Committee on Agriculture and Forestry has held a number of hearings on this subject since last January. We have heard of the financial losses sustained by many individuals. However, we have not had any recommendations supported by all interested parties that will provide immediate relief.

Again, let me say how gratified I am that the President has agreed to call together producers, packers, retailers, and Members of Congress next week to discuss ways and means of alleviating the current crisis.

It is my very sincere hope that this White House Conference will result in a plan of action which will prevent additional bankruptcies among farmers, ranchers, and feeders. At the same time, packers and retailers must make a fair profit. Finally, all of this must translate into a price that consumers can afford to pay.

THE LATE ADLAI E. STEVENSON: AN ANTIDOTE FOR WATERGATE

Mr. CRANSTON. Mr. President, on June 4 approximately 47 percent of the California electorate voted in the State's primary. It was the lowest turnout in a California primary since World War II.

The conventional explanation has been that the plethora of misconduct and violations of the law by some of the highest officials in our Federal Government has generated a widespread frustration with politicians and the political process. The resulting apathy reflects a cynicism about our political system and a feeling that it does not matter what the individual citizen thinks or does.

To the extent that this theory about America's mood is correct, it should concern all of us.

The lesson of Watergate must teach the American people the compelling necessity for greater involvement by everyone in the political process, for greater viligance that our rights and freedoms are not stolen away while we are not watching.

All of us in public office have a major responsibility of bringing this lesson home to the American people if we are to save our governing system from the public apathy which can only spawn a dreary future of Watergate-polluted nightmares, and an ever-eroding democratic process.

Our distinguished colleague from Illinois (Mr. STEVENSON) did an outstanding job of fulfilling this responsibility in a speech last weekend about his father. The late Adlai Stevenson was, as a politician, the very antithesis of the sleazy tribe of political misfits whose involvement in Watergate and the coverup has been paraded before America's television screens this past year. He set a standard for political behavior which can serve all of us as we resurrect our political system from the Watergate ash heap.

And he did not do it by turning his back on America's political scene.

As Senator STEVENSON said:

My father was, first and foremost, a politician—and proud of it. For him the word was not an epithet—but a title of honor; in his mind politics was not another word for cynical maneuvering and shady dealing. It was another word for public service.

Mr. President, our colleague's message should be heard by all Americans. I ask unanimous consent that Senator STEVENSON'S speech be printed in the RECORD:

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

ADDRESS BY SENATOR ADLAI E. STEVENSON, PREPARED FOR DELIVERY AT GRADUATION EXERCISES AT THE ADLAI E. STEVENSON HIGH SCHOOL, PRAIRIE VIEW, ILL.

It means a great deal to me to express, on behalf of my father's family, our thanks for the honor that this school pays his memory.

I hope this school will be forever linked, not just to his name, but to the values he stood for and spoke for in his public life.

He was unfailingly optimistic about the prospects for reason and for progress in America. He trusted in the good sense of the people; he talked sense, confident that, in time, reason would prevail. He knew that in our self-governing nation the ultimate judgments are rendered by the people. And so he believed the people had to be trusted with the truth. Like Jefferson and Wilson, he was certain that trust in the people would produce excellence in government and exalt us to high, common purposes. His confidence in the people and their government merged. Even in the depths of political defeat he never lost his confidence that an informed public would give itself an enlightened government.

My father was, first and foremost, a politician—and proud of it. For him the word was not an epithet—but a title of honor; in his mind politics was not another word for cynical maneuvering and shady dealing. It was another word for public service.

Faith in our democratic system and service to it were the ideals on which he based his public career.

Today those ideals seem scarce in our public life. And so I raise two questions and suggest some answers:

Is there any reason to be optimistic—in a time of inflation and corruption and shaken public faith?

Is there any reason to honor or choose the profession of politics—when each day's headlines tell of corruption and betrayals of public trust?

I think there are good reasons to answer "yes"—an emphatic yes—to both questions.

Our system—attacked and abused as it is—is functioning.

The inflation we are suffering is not caused by some deep fault or breakdown in our system; it was not ordained by fate. It is the result of mistaken policies and priorities. By exchanging old policies for new ones and by reordering our national priorities, we can solve our economic troubles.

Our resources, though we have not always been wise about conserving them, are still rich beyond imagining. Our productive capacity, though underdeveloped, is by far the greatest on earth. Our people, though they are the victims of unemployment and underemployment, are the most energetic, well-educated and highly skilled of all the world's people.

It's a tribute to the durability and strength of our economic system that it has survived the abuse of mistaken policies and misplaced priorities for as long as it has without worse

consequences. And it's not too late, by any means, to change our ways.

The corruption that dominates the headlines is not a judgment upon our nation or its political system. It is a judgment upon a few wrongdoers in government who failed their nation.

And, tragic as the corruption may be, we find in it proof that our democracy, even when put to the gravest tests, can survive and function and prevail. The wrongdoers are being held to account for their actions. Our system of justice is functioning—slowly but surely. The courts and the press have stood firm, and so is the Congress standing firm. The public is staying on course, insisting that its leaders be held accountable for their acts and decisions.

These facts are cause for optimism and confidence that out of the present trials we will emerge a wiser and stronger self-governing people.

I believe the American people understand that. They distinguish between the corruption of men and the corruption of our government. Only about twenty-five percent of the people express confidence in the President of the United States. The Congress ranks about as low in the national esteem. When asked recently by pollsters if they had faith in their leaders, a majority of Americans answered "no." Asked if they had faith in their country, close to seventy percent answered "yes." The American people perceive that though their leaders have fallen short, their country merits their faith and their service.

They wisely perceive that the faults are not in our system—but in a few officials who have misused that system.

Our present problems are traceable to nothing more nor less than a failure of leadership. For too many years we really haven't heard a voice of goodness and broad vision in our politics like the voice of the man for whom this school was named. For too many years we have heard, not the voice of decent principle—of idealism, if you will—but the voice of a cold and soulless pragmatism. For too long, the question asked by our leaders has been not, "Is it decent?" but "Will it play in Peoria?"

Our problems are problems of policy and leadership. And they can all be solved by improving our policies and our leadership. And you, my young friends, are the ones who must do it.

If I asked how many of you want to be politicians I suspect that few would respond. If I asked your parents how many wanted their children to be politicians, few would say, "I do." Parents would think to themselves, "Better they do something respectable, like collecting garbage, than be a politician." It is that attitude that inspired my father to enter politics. He saw that unless the best citizens entered our politics, the worst would control it. Today it is that attitude that stands between the nation and its future. So my advice to you who are sons and daughters and to you who are parents is this: do not shun the world of politics—enter it, and be politicians. That, after all, is what our founding fathers had in mind: that every citizen should play an active part in the affairs of his community and his nation; that every citizen, in short, should be a politician.

What sort of politician? Jefferson, Lincoln, Wilson and Roosevelt were politicians. There is no nobler profession than that of the politician, for in no other profession is there such an opportunity to do good—and so much temptation to resist! So much opportunity for service and hard work—and so little material reward for it.

Those who created and sought to cover up the corruption we now are suffering were not politicians. They did not understand the exacting ethics of public service. They brought with them to Washington, not the ideals of Jefferson and Wilson, but the anything-goes ethic of the backroom. And the first thing to go was decency. These were not politicians. They were advertising men, lawyers and self-appointed pragmatists.

For them politics was a game in which all that counted was winning. You cannot find a word in their recorded conversations about service or what is right for the country. The one option they never discussed was the only one my father ever considered—trusting the people with the truth.

The man for whom this school is named was a politician. And he would want you to be the same. A true politician has a sense of history—great sweeps of history like the "revolution of rising expectations" in the world. A true politician seeks to join the United States with the tides of humanity struggling for bread and freedom, for economic and social justice. A true politician lives by the principles which made this nation great and still sustain it. He has a vision of a decent future to strive for. A true politician struggles to serve, not just to win.

If we can return to places of high responsibility citizens who live by those principles, we can recover and justify the faith our political forefathers held in our system. We can restore honor to that word, politician.

The great danger that faces us in America is not after all inflation—or even corruption in government. Our system, wisely framed by the founders and wisely managed by its leaders, has ways of dealing with those evils, great as they are.

The greatest danger facing us is the corruption of ourselves.

The greatest danger is that we will say of men who serve the public, "They're all alike. They all do it."

Or that we will dismiss wrongdoing with a cynical shrug of the shoulder: "It's nothing new—they just got caught this time.

The greatest danger is not in being lied to—but in lying to ourselves.

As Henry Stimson put it: "The deadliest sin of all is cynicism". Without confidence in ourselves and in our system, we will turn upon ourselves. We will say they all did it, or the government is corrupt, or blame someone else. And then we will lose the trust in ourselves which alone holds this rich and diverse country together.

So I urge you: Do not succumb to that danger. Do not believe that lie—do everything you can to recover, and then restore to others, faith in that democratic system which Lincoln called "the last, best hope of earth." Be a politician—a servant of your country, in private life, in public life.

If you are, you will make of this school more than a shrine to the name of my father; you will enshrine his values and purposes.

And that, of all the honors you might pay him, would be the one he would cherish most.

LITHUANIAN INDEPENDENCE

Mr. GOLDWATER. Mr. President, on the occasion of Lithuanian Independence Day, which will be celebrated June 15, I would like to commemorate the spirit of freedom which still lives among the proud people of Lithuania by bringing to the attention of my colleagues an eloquent plea on behalf of Lithuanian self-determination by the Lithuanian-American Community of Phoenix, Ariz. I hope this petition will remind my friends in Congress that the struggle in the world between the forces of freedom and slavery, under the various hues of communism, is not over.

To me, Mr. President, there is no greater priority that we should have than freedom; and I am proud to ask for unanimous consent, on behalf of all those persons and groups who seek to keep alive the quest for independence by Lithuania, that the petition by the Phoenix Chapter of the Lithuanian-American Community be printed in the RECORD.

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

PETITION BY LITHUANIAN-AMERICAN COMMUNITY, PHOENIX CHAPTER

(By Emily Josen, President)

On June 15, Lithuanian-Americans will join with Lithuanians throughout the free world in the commemoration of the forcible annexation of Lithuania by the Soviet Union in 1940 and the subsequent mass deportations of thousands of Lithuanians to Siberian concentration camps.

Today, the people of Lithuania are denied the right of national self-determination, suffer continual religious and political persecution, and are denied their basic human rights.

The Soviet Union is now seeking détente as well as a Most Favored Nation Status with the United States. This desire on the part of the Soviet Union presents the United States with a unique opportunity to ease the plight of the peoples of Lithuania and the other Captive Nations.

The United States should adopt an official policy for the current European Security Conference in accordance with House Concurrent Resolution 394 of the first session of the 93rd Congress submitted by Mr. Derwinski to the Committee on Foreign Affairs. "Now, therefore, be it RESOLVED by the House of Representatives (the Senate concurring), that it is the sense of the Congress that the United States delegation to the European Security Conference should not agree to the recognition by the European Security Conference of the Soviet Union's annexation of Estonia, Latvia, and Lithuania and it should remain the policy of the United States not to recognize in any way the annexation of the Baltic nations by the Soviet Union."

While steadfastly maintaining the United States policy of nonrecognition of the forcible incorporation of the Baltic States into the Soviet Union, the United States should insist that the following policy changes are made by the Soviet Union:

1. Lowering of excessive tariffs imposed on gifts to relatives and friends residing in the Baltic States.

2. Increase of the current five-day tourist visa to Lithuania to a more reasonable limit.

3. Elimination of unreasonable travel restrictions on tourists in Lithuania.

4. Provision for Lithuanians to emigrate to other countries as provided by the Charter of the United Nations signed by the Soviet Union.

NATHAN SHAPELL—A GREAT AMERICAN

Mr. CRANSTON. Mr. President, United Press International recently carried the outstanding story of an American businessman's rise from imprisonment in Auschwitz concentration camp in Nazi Germany to chairmanship of a multimillion-dollar California homebuilding firm. It is an inspiring epic, made even

more meaningful to me by my personal friendship with him.

Nathan Shapell combines humanitarianism and compassion with the creative enterprise of a successful American businessman. I would like my colleagues to share with me this summary of Nate Shapell's life. I ask unanimous consent for the story from the Santa Monica Evening Outlook to be printed in the RECORD.

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

SHAPELL SURVIVED NAZI TERROR REIGN

NEW YORK (UPI)—Nathan Shapell lost his home in Poland and most of his relatives to the Nazis, but without formal education or a word of English he formed a company which has built 20,000 homes for American families.

The chairman and chief executive officer of Shapell Industries, Beverly Hills-based home buidling firm with annual sales of $9 million, entered the real estate business in 1953 and now charts the destiny of one of five housing companies listed on the New York Stock Exchange.

But Shapell Industries is more than just another chapter in the American dream. It is a symbol of survival forged by Shapell, his brother David and his brother-in-law Max Weber—the only male members of the Shapell family to live through Hitler's reign of terror and internment in Nazi concentration camps.

Even before Shapell came to the United States in 1951 wearing the tatooed number that marked his imprisonment in Auschwitz, he had built a community in Bavaria for thousands of displaced persons whose homes, families and lives had been destroyed by the Nazis.

This intense and gentle man has written a book about the post-war years—"Witness to the Truth"—in the English that eluded him when he first arrived in America. Proceeds will go to a foundation for needy children.

"I became a leader by default," Shapell said in describing his role as a 23-year-old Jewish refugee who persuaded the American military government to permit him to set up a community in the German town of Munchberg, untouched by the war. "Our leadership was gone," he said.

Thousands of displaced persons poured into Munchberg. Thrust into the role of a diplomat shuttling between the DPs, the hostile German resident, and U.S. officers, stunned by Hitler's carnage and unprepared for the enormity of the refugee problem, Shapell made Munchberg a model community while similar efforts failed in other parts of Germany.

In his 5½ years at Munchberg, Shapell built the first orphanage in Germany for 450 Jewish children, kibbutzim to prepare young DPs for immigration to Palestine, a school and turned broken lives into a revitalized community. He also acted as a public defender for the DPs.

"If a DP spent one day in jail, his entire family would be denied immigration to Canada, Australia or the United States," Shapell explained. He lost only one case, although he left school in his teens.

Shapell and his wife, Lilly, who also survived several concentration camps and a death march, sailed for America in 1951, only after every one of Munchberg's temporary residents had found a permanent home.

"Witness to the Truth," written in 1963, is dedicated to the 52 members of Shapell's family who died under Hitler's rule. "It's time somebody stood up and said: 'Look at all America has done for the world.'" said Shapell.

ADDRESS BY HON. HOWARD H. CALLAWAY, SECRETARY OF THE ARMY, AT THE GRADUATION CEREMONY, U.S. MILITARY ACADEMY, WEST POINT

Mr. GOLDWATER. Mr. President, one of the more inspiring talks delivered to school graduates during this commencement season was one delivered by the Honorable Howard H. Callaway, Secretary of the Army, to the U.S. Military Academy's graduating class on June 5. Secretary Callaway reminded the corps' class of 1974 that the Army's mission today extends beyond that of defending the United States against direct attack. The Secretary informed them that the Army today is the "key to the Free World's conventional forces that provide the balance upon which our hopes for peace are founded."

Mr. President, I ask unanimous consent that the entire text of Secretary Callaway's graduation address be printed in the RECORD.

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

ADDRESS BY THE HONORABLE HOWARD H. CALLAWAY

Gentlemen of the Class of 1974, Gentlemen of the Corps, distinguished guests, proud parents, ladies and gentlemen:

What an exciting day this is. I sense a feeling of pride and challenge. I'm delighted to be a part of it.

This is not only a great day for those of you who are graduating today; it's also a great day for the Army. For the Army is welcoming over eight hundred of our country's finest young men into the ranks of its professional officers. You have proven yourselves. You have met standards of excellence that are recognized the world over.

You are entering the service of your country at a challenging time. Nine days from today, the Army will celebrate its 199th birthday, and begin its 200th year. So you enter the Army just in time for its bicentennial celebration. Your first years of service will contain moments of pageantry and ceremony, celebrating the role that the Army has played in developing our land and protecting our freedom. These will be proud moments. Enjoy them.

But more important, you enter the Army at a time when the Nation is moving from a postwar period to a new era of genuine hope for a generation of peace throughout the world. This hope for peace is made possible partly by a strategic nuclear balance that would make nuclear war clearly unprofitable to any side. But as we have seen, nuclear restraint alone does not guarantee peace. True peace requires that our non-nuclear forces also strike a balance, to make it equally unprofitable for any country to engage in conventional war. And this requires conventional strength.

So the Army's mission today is not just to defend the Nation against direct attack. Today's Army is the key to the Free World's conventional forces that provide the balance upon which our hopes for peace are founded.

No longer can the Army accomplish this monumental task with a small cadre which will provide the leadership for a larger Army. No longer can we wait for the arsenal of democracy to stir, as it becomes awakened to the challenge. We don't have time for that. We must now be able to respond in days or weeks, not in months or years.

As a nation, we have elected to accomplish these difficult, subtle tasks—tasks that are immense and global in scope—without conscription, without a draft. We have elected to meet these challenges by asking young men and women to serve their country, freely and without compulsion. We have chosen to express the will and determination of our country and the convictions of its people through the voluntary service of large numbers of its young citizens. This clearly adds a new dimension to our challenge.

I think you will agree that this is a sufficient challenge—even for the Class of 1974. Simply stated, the challenge is to have a well-trained, well-equipped, disciplined, ready volunteer Army, large enough to fulfill our global commitments in such a manner as to deter military aggression.

There are still many in America who feel that we cannot accomplish this global mission with a volunteer Army. I disagree. I disagree because I believe in the young men and women of America today. I believe they want peace, and realize we cannot have peace without strength. They are no different from other generations of young Americans who have always been willing to serve their country. All that is necessary for the success of today's Army is leadership worthy of those who join. I am convinced that you and your fellow officers from ROTC and OCS will provide this leadership.

Yes, I really mean that. I am counting on you as second lieutenants to provide the leadership to make the volunteer Army work.

Most of you, after leave and further training, will serve your initial tour with units. That means that sometime early next year you will begin to have an impact on the units that we depend on to accomplish the mission—and you will have a direct influence on the young men and women who volunteer for service in the Army.

You will have a chance to take the young man who has never succeeded at anything before in his life and show him that you have faith in him; and you can help him and encourage him to become an outstanding soldier.

And you will also have the chance to take the outstanding young man who has never failed at anything in his life (as a matter of fact he's so good he thinks he should have your job) and be innovative enough to keep him challenged. And this can be *your* challenge: to make your unit good enough to live up to the legitimate expectations of our best soldiers.

You will need to have the skill to conduct repetitive training—training that *has* to be done over and over—in a way that's exciting, challenging and meaningful.

You will need to take the young man who was raised in a permissive atmosphere and show him the meaning and value of discipline, especially self-discipline; you will have to make him understand that an Army without discipline is a sham, but a disciplined Army is an inspiration to the Nation.

You will need to take the young man raised with prejudice and show him that in the Army, everyone is judged by the job he does, not by his background.

You will need to insure that the young man who is coming to his unit, perhaps in a foreign country, away from home for the first time, is welcomed and that he knows he is part of a unit that cares about him.

You will need to challenge everyone in your platoon to go as far as his God-given talents will allow. You will need to insure that your soldiers take full advantage of the educational opportunities available in the Army, to help them realize their potential.

This will not only help them while they're in the Army, but will be of benefit to themselves and to the country when they return to civilian life—whether that's in two years or twenty.

You will need to inspire change in the attitudes of people, both those serving above you and below you, who still feel that the Army is made up of numbers rather than of people. You will need to show by caring immensely for your men, and by showing that every individual is important to you—as a person. This does not mean coddling. It does not mean being soft or easy. It means that we treat each soldier with dignity and respect.

You will need to show by your example of integrity that there's no room in the Army for anything else. You will need to show by your own idealism, by your openness and candor in everything that you do, that the Army is an appropriate place for idealism. There is no place in the Army for anyone—from recruit to general officer—without integrity, and you will be in position to perpetuate these values.

In all your actions as leaders, you will affect the attitude of soldiers toward the Army; and through these soldiers you can collectively have an impact on the country as a whole. If the experiences of our soldiers are good ones—if they sense that what they are doing is important and worthwhile—their attitude will help our efforts to attract and retain top-notch people in the Army. When a soldier goes on leave or completes his hitch, the story he tells to his parents and his friends will be very credible. If he goes home with a story of challenge, of opportunity, of discipline, and of service, we can expect America to be proud of him, and of the Army and what it's doing. And if the American people feel that way about their Army, we will have all the support and encouragement we need.

I don't expect that your job will be easy, but I am sure that it can be done. As a matter of fact, if it were easy, the Army wouldn't need you. But the Army does need you, with your training and background, because it has a difficult job to do.

Today's recruits, still going through basic training, have idealism and a desire to be challenged. The young soldiers assigned to units, who are no longer recruits, still expect to be challenged and stimulated. The noncommissioned officers who are the mainstays of any unit will look to you for leadership, for courage, for concern. The people are there, in the units. They are qualified, well-motivated people who can do everything expected of them. It's up to you to inspire them, and to make the Army worthy of our Nation's expectations.

As you leave West Point today, you join a select company of graduates that stretches back to the beginning of the last century. This company numbers among its members many of the greatest leaders our country has known. Leaders from each succeeding class and each generation have made their mark by building on the achievements of their predecessors. It is the continuity of achievement, the cumulation of service, that has enabled the Army to meet each new challenge.

I am confident that you can keep pace with this company, and that the eight hundred of you can have an enormous impact on the Army. With the challenges facing you today, you can make the greatest contribution by building on the work of those who have gone before, and by drawing strength and wisdom from their example.

If I may, I'd like to paraphrase a thought that goes back almost two thousand years: by standing on the shoulders of giants, you can see farther than the giants themselves.

There have been giants before you, giants among the soldiers and leaders who have served in the past. They tower above the rest, and can lift you to see terrain even beyond their farthest vision. But you have to earn the right to that vision by dedication, by devotion, by desire, by integrity.

I challenge you now to stand on the shoulders of the tallest giants that have walked before you. None of them ever joined the Army at a time of greater opportunity or challenge.

If you accept this challenge, I believe we can have the finest Army our Nation has ever known. I really mean that. I sincerely believe that with your leadership we can have the best Army we've ever had. And I believe this is a challenge worthy of you.

I urge you to accept it!

ADVICE FOR YOUNG LAWYERS

Mr. ERVIN. Mr. President, the Honorable Donald Gunn, Judge of the Probate Court in St. Louis, Mo., has written an excellent article entitled "A Handbook for Young Lawyers" which contains much advice upon the important subject of legal ethics. This article deserves the widest possible dissemination at this particular time, and for that reason, I ask unanimous consent that it be printed in the body of the RECORD. The copyright on this article belongs to Judge Dunn, and I use it for the purpose of printing in the CONGRESSIONAL RECORD with his consent.

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

PRACTICAL ASPECTS OF THE PRACTICE OF LAW—
A HANDBOOK FOR YOUNG LAWYERS

Congratulations: You are entering into the greatest of all professions. This is no idle boast. It is, instead, a simple statement of fact. The ravages of disease are dreadful to contemplate. The loss of freedom is far worse. Since the beginning of time mankind has cherished his individual liberty. The great Patrick Henry expressed the feeling of a freedom loving people with his statement that he would prefer to die rather than to lose his liberty.

Law is the essence of liberty. Its purpose is to establish and preserve an orderly society where individual rights are protected and their correlative duties are acknowledged. While the layman endeavors to find the abstraction of "justice", the lawyer seeks the "rule of law". The dispensing of justice is a subjective judgment. What seems just to one judge may be rank injustice to another. But the rule of law applies equally to all men.

The fundamental difference between the role of government in our democracy and in a totalitarian state is quite simple. We hold it to be evident that our fundamental rights come from Almighty God and that the role of government is to protect and preserve those rights. Freedom of speech, of the press, of assembly and the like are not given to us by the constitution, they are guaranteed by it. If they originated in the constitution they could be taken away by its revocation. But they cannot be. Such human rights flow from a Divine Creator through to all other earthly endeavors.

They cannot be abridged by the action or inaction of any human being. They are ours because we are creatures of the Creator. Their preservation is the single most important task of mankind. Is it any wonder, then, that the profession devoted to such a noble purpose should be accepted as paramount to all other earthly endeavors.

We have described the concept of "justice" as an abstraction. We do not, of course, wish in any sense to downgrade its importance to our society. Obviously, lawyers should desire justice at all times. A world in which there was true justice for all men would indeed be a utopia. But the use of the descriptive word "true" immediately gives rise to problems of definition. We live in an imperfect world. It is unrealistic to think that true justice for all people can be accomplished in this life. The barriers of human greed and avarice are too great. The frailties of human nature are too many.

But the lawyer's quest for justice can be satiated, in part at least, by a high and unfailing devotion to the rule of law. We are not to be governed by men but by law. The rule of man can change from day to day, from ruler to ruler, from whim to fancy. The rule of law is constant. It is fixed and determined by legislative enactments or by court decisions. It controls the path of the government, the decisions of judges, the conduct of the people. While it may be changed it is never frivolous. It may be modernized but not weakened. Its power is in its continuity and its even application.

It is not strange, then, that lawyers should be genuinely and deeply devoted to the rule of law. They have seen the beautiful logic and the general fairness of its application to any and every factual situation. Every court decision read and pursued gives deeper understanding of the depth and the majesty of our judicial system. If you are to be a good and successful lawyer you must love the law, as well as respect it. You must understand its importance to mankind and to the future of our civilization. The law has been and will be good to you. You, as one of its standard bearers, should be good to the law!

The role of the lawyer in our society has greatly changed over the years. Where he was once consulted only on strictly legal matters or where court action seemed imminent, today he is the adviser to businessmen in their affairs of commerce, he is the counselor to investors, the arbitrator of domestic relations disputes, the guide of both industry and labor, the mentor of public officials, the cornerstone of community action and the principle educator in public affairs.

You are a professional man. You are not a merchant, a salesman, or a businessman. A profession has been defined as a vocation requiring advanced study in a specialized field. You are not, in any sense, an employee of your clients. You should always think of yourself as a man of letters, educated not only in the law but in the arts as well. By reading, by discussion and by study you will improve your stature, broaden your horizons, increase your depth. It is important for you to recognize the need for continuing education, not only as a mechanic who seeks to become more skilled at his trade, but as a man of learning and culture.

While you should, if at all possible, carry out the wishes of your client in gaining his objective, you are well aware that you may not do so in a way that requires dishonest or unethical conduct. But what do you do if a client suggests a course of action which you know to be wrong? Obviously, you are faced with a difficult choice. Your conscience and your professional training say "no". Your fear of financial loss says "take a chance"! What do you say?

In the first place it will be well for you to remember throughout your practice that the

respect people have for you will, in a large measure, be but a reflection of the respect you have for yourself. If, because of any personal or professional dereliction, you are ashamed of your own conduct, no matter how deeply hidden that shame may be, you most certainly will have lost the respect and confidence of the people around you. The lawyer who will perform a dishonest act FOR a client, will in the hidden judgment of that client, perform a dishonest act AGAINST that client. While some one client may like having a corner-cutting lawyer for a time, you will find that his legal matters of substance will soon be turned over to reputable and respected members of the bar. With no desire to moralize, we can truthfully assure you that deception and dishonesty will destroy, not build, a law practice.

Moreover, the peace of mind which results from the knowledge that you are living up to the best traditions of the bar in your dealings with your clients, far surpasses any material gain which a shady practice might bring you.

One of the hazards of inexperience is the temptation to become personally involved with your client or his or her cause. You may become deeply distressed over the injustices your client is caused to suffer. You may be irritated by the attitude or conduct of your opposing counsel. You may feel frustrated over the delays in negotiations or those permitted by the court. You may hate your opponent or dislike his attorney. But in no event should you permit yourself to consider the legal problems before you as though they were your own. Such a view robs you of the objectivity needed to make sound judgments and to properly evaluate involved factual or legal questions. While you may well have sympathy for your client-wife in a divorce case you would do well to approach the case armed with citations and investigations rather than emotional charges. Proper and intelligent representation of her cause is far better than all the sympathy or solicitude in the world.

Personal involvement of a deeper nature, particularly with clients of the opposite sex, should never be permitted. Remember that the walls of your office do have ears, in the sense that what you say to a client in absolute confidence may well be repeated and distorted many times before you hear it back, much to your embarrassment, before a group of people. It is imperative for you to remember that your client, unlike you, is not bound by any seal of secrecy. What you say, innocently or with abandon, may well come back to haunt and embarrass you at any time—even years later.

It is equally important that you always have in mind that clients are usually persons not trained in the law and totally unaware of the complexities presented by what seems to them a rather simple legal proposition. Clients much prefer concise answers to such questions as whether you will win or lose their case; how much in damages will they be awarded; how long will it take to solve the problem, and the like. These are obviously questions which are difficult, if not impossible, to answer. Not only should you avoid any attempt to answer them directly, but you must also avoid stating anything which will be construed by them as an answer. A simple comment on what your client states his Aunt Minnie got out of her fall on the bus, can easily be interpreted by the client that it is your opinion his case is worth much more than Aunt Minnie's. This failure to communicate can impair negotiations when you finally get an excellent settlement offer, albeit less than Aunt Minnie's alleged recovery. The simple act of telling a client how much you sued for can be interpreted as indicating your view of the value of the case. Or, by a process of his own formula, that you think he should get ninety percent or half or some other portion or percentage of the amount sought in the prayer of the petition.

We are certainly not urging that you be deceptive with a client. Indeed, we are stressing the necessity of frankness. For until you near the time for concluding a litigated matter it is usually very difficult to evaluate either your chances of success or the outcome in dollars and cents. These are conclusions which rest in large measure not on your view of the case alone, but on the information known to your adversary and to which you are not privy.

Strangely enough one of the most difficult aspects of your practice will be to convince your client that he should tell you the truth, the whole truth and nothing but the truth. For some inexplicable reason many clients feel it is advisable to present what they consider to be a favorable case to their own lawyer, even though the truth may be, in fact, better for them. In view of this quirk in human nature, it is imperative that you interrogate your client fully, attempting to ferret out the facts as they are, not as he would have them be. Without giving your client an inappropriate lecture, it is well to explain to him that the whole truth is quite important to your evaluation and presentment of his case. Calm his fears of the truth by assuring him of your role as his ally as well as the confidential nature of your relationship. Explain that you are not bound to disclose all that you know to your opponent, but that by knowing all you will be able to decide what you should or should not so disclose.

We would be remiss if we did not discuss the importance of preparation in the handling of the legal affairs of your clients. We stress this here since the first and foremost act of preparation occurs at the time you first interview your client concerning his legal problem. Most frequently he is the best source of information necessary to the representation of his cause. By all odds he is usually your best witness. All relevant information, whether it appears to be important at that moment or not, should be elicited from him. The use of a prepared form or checklist for various situations, to assure against overlooking inquiry as to all proper and necessary information, will prove to be most helpful.

As we have pointed out, the facts are all important in evaluating the legal question involved. Once the facts have been determined the application of the law becomes a matter of research and study. Your first interview with your client should never be hurried or incomplete. Take your time, prod, ask questions, listen, and then ask more questions. At this point you may well take the role of a devil's advocate, seeking not only basic facts but those which your opponent will present you with at a later time. How embarrassing to learn six months after you have opened as estate that the real property was jointly owned at the time of the decedent's death. Or how foolish will you feel when you go into court to defend against an allegedly unreasonable charge, and it develops that your client had signed an acknowledgement for the full amount, but failed to tell you about it "because you didn't ask". Or what of those sleepless nights during the trial of a damage suit because you found out, after you impaneled the jury, that your client had six prior damage claims, when he only got around to telling you about three. One reaction in these instances is, of course, to blame your client. But a more logical and honest answer is that you were simply careless in your interviews with him.

After getting as many facts as possible from your client, it will usually be necessary to search elsewhere for evidence to support your position. As in all aspects of the law practice, this will require not only skill but plenty of hard work. There will be witnesses to interview, public records to review, hospital reports to copy, vital statistics to obtain and the like. While this work may at first seem to be less than pure legal services, the truth is that the ability to know what facts are needed to establish your case and when and how those facts can be presented as admissible evidence, is one of the highest skills of the profession. There are no shortcuts to gathering facts. When a lawyer attempts to find one he will be confronted with a high barrier. It is known as the rules of evidence. There is an old saying that a child who has his homework done is never late for school.

As to the legal aspects of your client's case, it may at times seem more convenient or quicker or easier to rely upon your memory as to the law of a matter under consideration. Or you may just quote what some other lawyer told you about what the Supreme Court held in a similar case. There is no easy way to find the law, just as there is no magic wand for developing the facts. The question is not what you think the law is—or, indeed, should be. The real solution lies in what the statutes say and the cases hold. And this means working at legal research, the benchmark of a true lawyer. Your effort to get to trial in any case, will be measured in a large degree by how ready for trial you really are. Cases are disposed of, and money is made by the lawyer, when at the call of the docket, he can announce ready and mean it.

Lawyers live by recognizing the need for adherence to law. It is apparent, therefore, that they should do no less in the handling of their own practice. Courts have dockets, tax returns have due dates, pleadings are to be filed within certain time spans, appeals must be taken within prescribed periods. The good lawyer recognizes the importance of meeting all legal requirements as to time. Those who fail to do so will soon find that penalties, default judgments, broken appointments and harmful court orders will be detrimental to his practice, as well as to his position at the bar and in the community. But lawyers are busy people. They should not depend upon their memory in such important matters as scheduling appointments, meeting deadlines or answering docket calls. It is imperative that the young lawyer devise a "system" for keeping dockets, calendars and schedules. Only by so doing will he conserve his time and his reputation—the two most important ingredients to a successful law practice.

In addition to marshaling his own time in order to obtain a maximum return in peace of mind and dollars, it is always well to remember that while you have many and varied legal matters to handle, to each of your clients there is only one—his own! The often spoken complaint that "I never hear from my lawyer", has some substance. There is much truth in the adage that the wheels of justice grind slowly. What are ordinary delays and postponements to you are frequently sources of great concern and irritation to your client. It is advisable, therefore, that you keep your client informed, to some degree at least, on progress and developments. Obviously you cannot spend a great percentage of your time in reporting to your clients. But a periodic letter to the effect that you have filed suit, that depositions have been taken, that you have asked for a setting or the like, establishes a better lawyer-client relationship, makes your client feel more secure and will, in the long run, make referrals from such clients a greater possibility.

From time to time during your years of practice you will come into possession of highly valuable documents or papers. They may have real monetary value such as in the case of stocks, bonds, certificates of deposit and the like, or they may have significant

worth as evidence or be of other inherent value. In the pressure of daily activities it is very easy to let such articles be lost or mislaid. They may be shoved into another file, or fall into a waste basket or find their way into an old brief case. Your fiduciary role as the custodian of articles entrusted to your care should not be taken lightly. It is at once highly important that you not only exercise great care in this regard, but that you provide for some method of safeguarding such items. An office safe is an excellent investment. A safe deposit box can be rented at a fairly nominal cost. In any event the hazards of loss by fire or theft or inadvertance should be considered and precautions taken. Moreover, when such items have been in your possession and are surrendered to your client, or someone else on his behalf, make it a practice to always obtain a receipt, no matter how much you may trust the person to whom they are delivered. In this, as in many other respects, you are your own lawyer—and your lawyer would advise you to trust no one. In this regard we add one word of advice. As soon as you start to practice, purchase a policy of professional liability insurance. It may sound like an unnecessary expense, but, like other insurance coverage, when needed it will be worth its weight in gold.

Many lawyers go through their years of practice in the constant fear that someone will find out they don't know all there is to know about the law. This is preposterous! It not only creates a feeling of insecurity but leads to making statements, taking positions and rendering advice in a way which is not only erroneous but sometimes ridiculous. No physicians knows all there is to know about medicine. No engineer is all knowledgeable as to the science of engineering.

And, by the same token, any lawyer is a fool to think he can keep in his mind the whole body of the ever-changing and living law. Nor do clients expect such omnipotence. What is more likely to result from such an immature attitude on the part of a lawyer, is that both his friends and his clients will lose faith in the lawyer who pretends to be all-knowing and whose judgment, advice and conclusions prove to be erroneous in the light of deliberate consideration. The real measure of a good lawyer is whether he understands the basic legal question involved in any matter submitted to him, whether he can analyze that question in a lawyer-like manner, and whether he knows where to look for the law which applies to it. So armed he will then give intelligent and adequate study to researching the question. Off the cuff or so-called "curbstone" opinions can lead to serious entanglements with great damage to a client's cause. Moreover, a client is very likely to become aware that had he been properly advised in the first instance, he could have obtained a much better result. The words "I honestly don't know" should be a part of every person's vocabulary, lawyers included.

By the same token it is a wise lawyer who knows his own limitations. It is no admission of ignorance or of inadequacy for a lawyer to call in another attorney to assist him in all or some aspect of a matter which he is handling. A fresh approach, a broader view, a more objective analysis can frequently result from seeking the assistance of associate counsel. Lawyers, by chance or by desire, frequently become more or less specialists in one or more given fields of the law practice. The general practitioner who recognizes this and seeks the skills of such attorneys, has not only done his client a distinct favor, he has also made his own responsibilities less onerous and his time more flexible, to his ease of mind and his financial benefit. While the net fee to the lawyer making such a decision may be less in dollars, it will frequently prove to be greater on a time basis. Many shortsighted lawyers still fear such referrals on the theory that the client may establish a relationship with the associate counsel which may lead to loss of the client and his law business. This is not at all likely. In the first place lawyers brought into litigation in this manner should, and do, respect the attorney-client relationship of original counsel. This is not only on the basis of professional courtesy but because the associate will soon find other lawyers fearful of asking him to become co-counsel, if he is guilty of pirating law business.

One final work on the question of consultation with associate counsel. A lawyer must always keep in mind that his prime obligation is to his client, not to his own practice or his financial success. If calling in special counsel would be advantageous to the client and his cause, there is hardly any other decision the honorable lawyer can make.

The drafting of court pleadings will prove to be one of the most interesting and significant phases of your practice.

This is so because consideration of what should be alleged will surely give you a thorough understanding of the elements which you must prove at the time of trial. If your pleading measures up to the accepted standard of alleging the ultimate facts, you will find that it serves as a guide to the complete preparation of your case. Obviously, your proof will go beyond the allegations in the pleading. But basically the pleading and the proof are significantly inter-related. By the same token, a close examination of your opponent's pleadings will give you a projection of what to expect by way of his proof as well as an indication of his ability to establish the facts he has alleged.

The writing of briefs and the making of oral arguments before a trial or appellate court could themselves be the sole topic of a handbook for lawyers. While the young lawyer may not encounter these activities too often in the early stages of his career, the basic rules which apply to them ought to be learned at an early date. Suffice it to say that lawyers should always have in mind that the objective is persuasion not verbosity; that judges are impressed by demonstrating a thorough understanding of the facts and a deep knowledge of the applicable law; and that pride of authorship can be a detrimental trait in a field where learning is more important than rhetoric. Flights of fancy, abstraction on justice and equity and the like not only are of no assistance to the court, they are an academic approach to a pragmatic situation. Many young lawyers approach the bench in the style of undergraduate debaters, stating, perhaps quite eloquently, their own view on what the outcome should be. But the court isn't really concerned. Such expressions as "I think" or "it would seem like" or "we contend" and so forth have no place in the lawyer's vocabulary. As an adversary he should be quite clear and forceful that under the law and the facts the case should be decided in his client's favor.

It goes without saying that lawyers should never, under any circumstances, attempt to mislead the court by erroneous quotations, by language taken out of context so as to state a different result than the one actually reached, or by failure to mention that a cited case has been overruled or modified. But these are obvious questions of basic honesty and should need no elaboration.

One of the most difficult areas for young lawyers is the matter of determining fees. What have his services been worth? How can he determine what to charge so as not to cheat himself and at the same time neither overcharge nor startle or even offend his client?

Four basic considerations should be given weight in this determination. They are: How much time was spent? How complex or how simple was the problem? How great was the responsibility imposed? What kind of a result was obtained? We are aware that some lawyers add a fifth dimension to this analysis. It is "How much money does the client have?" We urge you not to take this approach. It is a consideration which should have no real bearing on the ultimate decision you must reach.

In the early years of their practice many lawyers find that their friends are of the opinion that they should be glad to handle legal matters merely for the "experience" they afford. While experience is a valuable asset, it is clearly non-negotiable. Moreover, if the young lawyer permits his acquaintances to put him in a category of a counsellor on trivia, he will find that their worthwhile law business will go to another attorney, one who thinks more highly of the value of his own services.

Obviously, there will be times in those early years where the young lawyer is in fact thankful for law business from which he can learn. Or his services may be sought by persons close to him, such as a member of his family or a close personal friend. Generally speaking all such relationships, as far as possible, should be kept on a business basis. Many people who are not billed for legal services are reluctant to return to the same lawyer, for fear they would appear to be looking for free advice. However, in some of such instances the young lawyer may, in his own good judgment, decide that he does not want to charge a fee for his services. The way to communicate this fact to his client is not to simply refrain from sending the client a bill. This leaves an open end situation in which the client simply supposes that the lawyer is delinquent in sending out his statements. Instead, it would seem to be more prudent to send a statement of the services rendered but instead of a stated amount, a mere indication that there is "no charge". This makes clear the lawyer's position, while at the same time indicating to the client that the relationship is one of lawyer and client, not merely friend and friend.

Similarly, if the lawyer wishes to charge less than what he considers a full fee, determined in the light of the criteria set out above, it would be well to send a bill for the full fee, showing thereon a "courtesy discount" of such amount as will reduce the sum due to that which the lawyer actually feels he should charge.

Most lawyers, in particular those who are diligent and industrious, are well paid for their services. The profession will assure you a good financial return. Of course, it will frequently be necessary to do legal work for people who simply cannot afford to pay. It is in the best tradition of the bar that a lawyer will never permit an injustice to occur merely because the unfortunate in our society are unable to pay for legal services.

It is a trite but quite true saying that books are the lawyer's tools. A competent tradesman handles his tools with great care. He protects them from loss and damage and makes certain they remain in good working condition. Books used by the lawyer should never be written in, underscored, doodled upon or mutilated in any manner. A phrase found to be of particular interest in one situation ought not be underscored thereby lessening the value of the remainder of the text in numerous other situations. Not only will the exercise of great care in the use of books enhance their value to the lawyer who is constantly using them, but will also insure a higher monetary value at the later time of their sale or trade.

An area of high priority for the consideration of the young lawyer is his or her relationship with other members of the bar. As we have said, ours is a great profession and it would be well for you to develop and nurture a continuing respect and affection for your fellow practitioners. Many persons have a way of pitting one lawyer against another, either directly by openly consulting an attorney while they are being represented by another, or indirectly by asking hypothetical questions designed to test the advice the first lawyer has rendered. The propriety of the direct approach is clearly covered by the canon of ethics. But the second, or indirect method, must be guarded against at all times. There is an old adage that free legal advice is worth exactly what it costs—nothing. But it is not difficult for a lawyer to be trapped into expressing an opinion which may prove to be contrary to the advice already received by the questioner. Such apparently contrasting opinions most frequently result from a difference in the presentation of the facts, rather than any real disagreement as to the law. But young lawyers would do well to avoid any discussion of matters then in the hands of another attorney. Just bear in mind that you may well be the object of such surreptitious review the next time around.

None of the foregoing should be construed, however, as suggesting that any lawyer should condone misconduct on the part of a fellow attorney. The legal profession will enjoy as much respect as lawyers earn for it. Those in the profession who do it a disservice are not entitled to protection at the expense of the public. The cardinal rule for the young lawyer should be to remember his own obligations to his chosen profession in the light of accepted professional standards. It is not his place to criticize or question the judgment or conduct of another attorney unless in good conscience he determines that it is his professional duty to do so. At the same time, it is quite sad to see a person trapped into an untenable or detrimental position because of neglect, inaction or misrepresentation by another lawyer. When in doubt regarding such a delicate matter it would be well to consult with a respected and more experienced member of the bar. Nothing is more degrading to the profession than a tug of war between two attorneys over a piece of law business.

For some reason many lawyers seem to find it necessary to rely upon alcohol as a crutch in their daily activities. The devastating effect of this practice need not be pointed out here. What we would suggest is that the habit of seeking artificial help of this kind is usually the result of a feeling of insecurity or inadequacy. Many such lawyers are simply seeking escape from their own inability to cope with the problems and pressures which inevitably result from practicing law. Our advice then, is not in urging abstinence from alcohol, it is rather in suggesting a review of your daily professional habits in search of any need to correct or improve them.

It may be that trial work upsets you, or that you are unsure of yourself in a particular field of law, or that deadlines are mounting, or a certain client or a particular case is putting on too much pressure. Or it may well be that you are living beyond your means or some unanticipated expense has created a serious financial crisis. When these things occur you must remind yourself that you are a professional man trained to seek solutions to problems, not to try to bury them. An intelligent review of your personal and business involvements with a view to adopting such procedures or systems as will correct the problems, should be given top priority. If you need help in this regard, get it! Problems put under a microscope and analyzed have a way of becoming smaller and more susceptible of solution. At any rate, if you remove the causes of your tensions and anxieties, you may find that your need for escape, or for fortification, or for solace, will vanish. Dependence upon alcohol is, in many instances, but a sign of immaturity. Those entering this great profession should rate themselves on this highly important scale.

While we are on the subject, a word about the attribute of "maturity" may be in order. One of the real scourges of our time is the overprotective attitude of today's parents. The generation which knew the lash of the great depression wanted, above all else, to see to it that their children would never have it so bad. There is an old adage that tough times make tough people. We have not had tough times! Maturity has been defined as "the state of being fully grown". A person is mature, then, when he no longer acts as a child. This means that he has learned how to accept the obligations of family life; how to take defeat and disappointment without whimpering; how to admit blame for his errors without excuse; how to stand alone for a principle, against the unthinking crowd; and, finally, how to be devoted to duty over personal ease or pleasure. Immaturity has well recognized symptoms. It means oversleeping in the morning, failing to file pleadings or to be in court on time, being late for appointments, losing papers entrusted to your care, forgetting to record appointments or court dates, showing up for trial unprepared or keeping files or their contents in a slovenly or disorderly manner. Finally, it means blaming your secretary for your own mistakes. Remember one thing, you will never be successful as a lawyer until you have gained that elusive but essential ingredient of "maturity". Without it "there's just no way".

There is still another facet to this great and noble profession. It is the opportunity it will afford you to serve the public good in any one or more of a variety of ways peculiarly adaptable to members of the legal fraternity. It is the absolute duty of lawyers to devote part of their professional career to such endeavors as in holding public office, either elective or appointive, participating in community affairs or in charitable or church activities of one kind or another. Moreover, mere lip service, with an eye on becoming better known for business reasons only, does not satisfy this obligation.

The participation of the lawyer should be in substance as well as in form. Motivation for participating in such activities is of the greatest importance. It doesn't take people very long to spot a phoney who shows up at the P.T.A. meeting just long enough to make a speech and then promptly begs off accepting an assignment to do a little work for the good of the cause. Volunteers for selfish reasons are a dime a dozen. Those for selfless reasons are the bread and butter of our social order.

The perception, the logic, the analytical abilities of a legal mind are what social and civic reform and the enhancement of human dignity are all about. Lawyers are needed to make laws as well as to interpret them. They are needed in administrative positions. Their persuasive powers are sought after in promoting civic causes. Their guidance is needed in questions pertaining to the religious and moral tone of the community. No profession can truthfully be said to have done so much to promote the moral and intellectual good of our nation, than men of the law.

Remember, too, that every lawyer owes some of his time to his profession. Direct contributions to professional organizations can and should be made by accepting an office or a committee assignment, or by mere regularity in attendance at meetings. The desire to serve may be manifest in different ways. But every lawyers should demonstrate that desire by showing a genuine interest in the activities of one or more of our professional organizations.

Throughout all of your career as a lawyer, there is one essential ingredient which will ultimately measure your true success. It is your own personal integrity. You alone can be the judge as to how you will measure up in this regard. You are the one person who will know whether you do things you shouldn't simply because it seems likely that no one will ever find out about them. You are the one person who will know whether you have been less than truthful, or honest, or decent—regardless of whether anyone else will ever be made aware of those things. Integrity results from the determination to do what is right in all instances, not only when you are in fear of getting caught for doing wrong. One of our great modern day philosophers once said that "right is right when nobody's right, and wrong is wrong when everybody's wrong." How true!

In conclusion we must again urge you to look upon your entrance into the great profession of law as a very real and meaningful privilege. You have not bought it, since it is not for sale. You do not own it, since its possession is subject to limitations and restrictions. This privilege is, in a sense, yours as a life estate to be preserved and used for your own and the common good and then to be passed on to the lawyers who will follow you and who will, we hope, find reason to revere your name as one who has been a credit to the profession of law.

We close with a scriptural quotation (Matthew 5:13–16) which we sincerely believe should be the measure of a true lawyer in the highest and finest sense of that noble term:

"You are the salt of the earth. But if salt becomes tasteless, what can make it salty again? It is good for nothing, and can only be thrown out to be trampled underfoot by men.

You are the light of the world. A city built on a hilltop cannot be hidden.

No one lights a lamp to put it under a tub; they put in on the lamp-stand where it shines for everyone in the house.

In the same way your light must shine in the sight of men, so that, seeing your good works, they may give the praise of your Father in heaven."

CEREAL LEAF BEETLE THREATENS GRAIN SURPLUS

Mr. CRANSTON. Mr. President, the recent controversial sale of wheat to the Soviet Union, and the resulting grain shortages and price increases suffered by domestic consumers, have graphically illustrated just how vulnerable our economy is to sudden fluctuations in the availability of grain.

In an October, 1973, article published in the Center Report, a publication of the Center for the Study of Democratic Institutions, theoretical biologist Robert Rosen discusses another kind of threat to our grain supplies: the cereal leaf beetle. This pest has the capacity of totally destroying crops of spring grains, unless massive doses of pesticides are used, a remedy which is both expensive and environmentally harmful. Mr. Rosen discusses in this short article a possible prototype program for the control of this pest and raises serious question about the ability of our present government structures to deal with this threat.

It is provocatve reading, and I ask unanimous consent that the text of this article be printed in the RECORD.

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

GRAIN CROPS AGAINST THE IMPERVIOUS CEREAL LEAF BEETLE

(By Robert Rosen)

Robert Rosen, a leading theoretical biologist, is a Center Associate.

The recent controversial sale of wheat to the Soviet Union has sent a series of shock waves throughout our entire economic structure, which continue to propagate today. The increasing severity of these shocks has graphically shown us just how vulnerable all sectors of the economy are to fluctuations in the availability of grain. These recent experiences should be borne in mind while reading the remarks to follow, for we shall consider (a) another kind of threat to our grain supply and, perhaps even more alarming, and (b) an apparent incapacity on the part of present governmental structures to deal with this threat.

As a member of the faculty of Michigan State University last year, I participated in an extensive interdisciplinary program entitled "Ecosystem Design and Management." This program was sponsored by the National Science Foundation through its RANN (Research and National Needs) office, and it had as its ultimate goal nothing less than the development of a scientific basis for landscape management and planning in its broadest sense. To reach such a goal, we found it necessary to accumulate a broad base of experience in treating specific problems. To this end, a variety of "prototype studies" were initiated under the program. Each prototype was chosen according to two criteria: it must epitomize, in a microcosm, essential features which had to be incorporated in the long-term project activities; further, the solution of each prototype problem would be important in itself, in the short term.

Five prototype programs were established in accordance with these criteria. They were:

1. Power plant siting, as a prototype of the interaction between industrial man with his environment.

2. The beef feedlot, as a prototype of the interaction of agricultural man with his environment.

3. Effluent spraying and its effect on terrestrial ecosystems.

4. Processing capabilities in aquatic ecosystems.

5. Pest management, as a prototype of the problem of ecosystem design and the control of interacting biological populations.

It is with the last of these, the pest management problem, that we shall be mainly concerned. The specific pest chosen for consideration was a pest of grain, the cereal leaf beetle. This beetle is native to Europe and Central Asia, and was first discovered in the United States in 1962. Since that time, it has spread inexorably until it presently extends over an area ranging from Pennsylvania to Wisconsin, and from Kentucky to Ontario. The beetle attacks mainly wheat, oats, and barley, crops which are planted with a combined acreage of about one hundred million acres annually in the United States and Canada. Moreover, according to the MSU studies, "it has increased measurably in all locations where detected, and each year surveys indicate a continual expansion of its known range. *At present there is no indication of its potential distribution limits or the density it can attain.*"

The cereal leaf beetle, despite all attempts at quarantine combined with massive spraying programs, seems to be moving inexorably north and west toward the granaries of this continent. The pest has the capacity of totally destroying crops of spring grains, unless massive doses of pesticides are used. The approximate cost of pesticides is $6 per acre (remember that there are one hundred million acres to be protected), *exclusive* of environmental damage caused by the pesticides. It is clear that some other remedy must be found, and found quickly.

It is clearly hopeless to attempt to exterminate the beetle; rather, means must be found to control it, i.e. to keep the damage it causes to grain crops below an economically acceptable threshold. A number of resources are available for this purpose besides pesticides (which can, to be sure, be used in a variety of selective fashions to minimize environmental damage). For one thing, certain grains are more resistant than others, and this resistance can be increased genetically. Again, appropriate strategies of planting and crop rotation can help keep the beetle population localized and lower their density. Finally, there is the entire area of biological control; the possibility of finding predators and/or parasites specific to the beetle.

A search was made some years ago in Europe for natural parasites of the cereal leaf beetle. Some twenty different parasites were discovered, of which three were chosen and introduced into the fields on an experimental basis. Unfortunately, the biology of these parasites, and their relation to the cereal leaf beetle's life cycle, were not well-known at that time; the parasites chosen for introduction turned out to interfere with each other, and no measurable control of beetle population has been achieved so far.

However, it is clear from the above that we have at our disposal at least a half-dozen different components of an effective control program. The problem is to orchestrate these components properly into a control strategy so that they act synergistically, and not antagonistically. This was the problem undertaken at MSU.

A tentative solution to this problem has in fact been obtained, through detailed modeling of the beetle's life cycle and its interaction with its hosts and its parasites. The key to a synergic control strategy turns out to involve timing the control measures; e.g., time of crop planting, time of parasite release, time of limited spraying of pesticide properly in relation to the beetle's life cycle. This life cycle, in turn, depends crucially in any year on (a) the distribution of overwintering adults from the previous year, and (b) the local temperature variation in the field.

There is, therefore, no one grand strategy which will uniformly control the pest throughout its range. Rather, the overall control strategy must involve many hundreds of limited local strategies, the nature of each determined by the local conditions. In short, local strategies must develop from the "on-line" acquisition of local data, which must be integrated with the overall situation and from which the individual local strategies can be computed.

So far, so good—at least theoretically. These results are ready to be submitted to the appropriate agency of government, so that the cereal leaf beetle can be brought under control and catastrophe averted. But to whom do we provide them? What is the agency with the responsibility to see that the problem is solved, and with the authority to see to it that the appropriate strategies of control are instituted?

At first sight, it would seem that this is no problem. Indeed, the RANN program of NSF has stipulated that, before any project is funded through the program, an appropriated "user group" be identified by the research workers, and plans set forth whereby representatives of the "user group" are to be integrated into the project from the outset. In the case of the cereal leaf beetle, it seemed clear to us that the appropriate "user groups" would be the United States Department of Agriculture and the Agriculture Extension Service, and the NSF agreed. However, as the details of our integrated pest management strategy developed, it became more and more clear that the "user groups" we had chosen did not possess the requisite requirements of responsibility and authority, and in fact could not implement the kinds of control strategies which we proposed. Worse than that: we could find no group of "users" with these qualifications, nor the capacity to generate such a group under existing conditions.

We can specify in detail the properties of the presumptive "user group." It must have the authority to bear the expense of establishing and maintaining the local monitoring facilities which must be the backbone of the control strategy. It must have the authority to establish and maintain the central facilities at which the local strategies are computed. And finally, it must have the authority to see to it that the control strategies are actually implemented as the local level, by each farmer in the field, even though the strategy will vary from region to region and from year to year.

The authorities required for this are presently spread over a host of local, regional and federal jurisdictions. It is difficult to find a way whereby, in the present scheme of things, they can be extricated and vested in an appropriate agency. The present distribution of administrative authority was, of course, created to solve particular kinds of problems which have arisen in the past. There is no reason to expect this separation of jurisdictions to be appropriate to the kinds of problems which are now before us; indeed, we concluded that, in the present circumstances, the problem of the cereal leaf beetle cannot be solved.

In other words, we see that in order to solve one relatively circumscribed problem of pest management, we require an effort that is at bottom political. We require the generation of entirely new structure, which cuts across traditional lines of authority in novel ways. But the existent structures have an inertia of their own, which resists attempts to modify them so as to meet the new problems. Thus the cereal leaf beetle is not merely an agricultural challenge, but a challenge to the body politic itself.

Two further points must be made. For one thing, it should be remembered that the cereal leaf beetle study was intended as a *prototype*. If it is in fact a prototype, then many other similar problems will likewise lead to solutions which cannot be implemented because no appropriate "user group" exists or can be created easily. That this is in fact the case is indicated, not only by our experience with others of our prototype projects, but by the recent history of many environmental and planning projects.

Second: let us sharpen the question somewhat, and ask what is the appropriate "user group" for the result just announced; namely, that an important environmental problem cannot be solved with the present distribution of authority and responsibility? Who is there to tell? And who has the authority and responsibility to act? Is it the Congress of the United States? And if it is, how are we then to follow the RANN precepts, and involve this "user group" directly into the research endeavor? It is on the solution of problems like this that the solutions to all the others will depend.

We repeat that the challenge of the cereal leaf beetle, serious as it is economically, is at bottom a political challenge. It is not an indictment of our system to point out that its present structures will not directly meet a new kind of challenge; after all, they were invented to meet the other kinds of challenges. However, we can say that the system will have failed if it cannot in fact meet the problem of the "user group"; a problem which will return with ever-greater insistence in the years to come.

MAJ. GEN. ARTHUR B. HANSON, USMCR

Mr. MATHIAS. Mr. President, it was my honor to attend a ceremony at the Marine Barracks recently to recognize

the distinguished service throughout the last 8 years of Maj. Gen. Arthur B. Hanson of the U.S. Marine Corps Reserves, and his long service as a member of the corps in many capacities.

The Commandant, Gen. Robert E. Cushman, Jr., attended the review saluting Major General Hanson, as did many guests from all of the armed services and from his wide circle of friends in Maryland. The review commanded the admiration and respect of all present as an example of military precision and martial music.

Major General Hanson was awarded the Legion of Merit from the President of the United States. I believe the citation accompanying this award speaks for itself, and I ask unanimous consent that it be printed in full in the RECORD.

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

THE SECRETARY OF THE NAVY,
Washington, D.C.

The President of the United States takes pleasure in presenting the Legion of Merit to

MAJOR GENERAL ARTHUR B. HANSON, UNITED STATES MARINE CORPS RESERVE

for service as set forth in the following

CITATION

For exceptionally meritorious conduct in the performance of outstanding service as a Marine Corps Reserve General Officer from November 1966 through May 1974.

Throughout this period, Major General Hanson exhibited superior professionalism in the performance of a variety of demanding assignments. He served on various Reserve Boards, as a member of promotion selection boards, and as a personal representative of the Commandant of the Marine Corps at a variety of official functions. In all assignments, Major General Hanson displayed aggressiveness, sound judgment, peerless determination, and exceptional resourcefulness. His business and professional acumen, foresight, and intimate familiarity with the Reserve establishment permitted him to contribute significantly to the improvement of both individual and collective leadership within the Marine Corps Reserve, thereby enhancing the training and mobilization readiness of all Marine Corps reservists.

By his outstanding competence, judgment, and inspiring devotion to duty throughout, Major General Hanson upheld the highest United States Naval Service.

For the President:

J. WILLIAM MIDDENDORF,
Acting Secretary of the Navy.

THE UNITED STATES OF AMERICA

This is to certify that the President of the United States of America has awarded the

LEGION OF MERIT

to Major General Arthur B. Hanson, United States Marine Corps Reserve for exceptionally meritorious conduct in the performance of outstanding services from November 1966 through May 1974.

Given this 31st day of May, 1974.

J. WILLIAM MIDDENDORF,
Acting Secretary of the Navy.

THE OFFSHORE OIL GRAB

Mr. KENNEDY. Mr. President, I want to call to the attention of my colleagues a recent editorial published in the Boston Globe entitled "The Offshore Oil Grab."

The question of whether an extensive oil and gas leasing and drilling operation should be undertaken on the U.S. Outer Continental Shelf is of critical importance to the entire Nation. It is of particular concern to those of us in New England.

A recent study by the Council on Environmental Quality included a strong recommendation that an accelerated leasing program be undertaken in the Georges Bank area off the New England coast. A critic of that study, prepared by the National's Academy of Sciences, while noting that development of OCS oil and gas and environmental protection need not be mutually exclusive objectives questioned the assumptions and criteria used by the CEQ in assessing the issues posed. It termed the criteria used by the CEQ in ranking potential OCS development areas by the degree of relative net environmental risk "inadequate and misleading."

Mr. President, I ask unanimous consent that the Globe editorial, highlighting the concerns of New Englanders over the impact of an extensive offshore leasing program be printed in the RECORD.

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

[From the Boston Globe, June 9, 1974]

THE OFFSHORE OIL GRAB

In the middle of last winter's energy crisis, President Nixon announced that the Administration would increase oil leasing on the outer continental shelf from three million acres to 10 million acres in 1975. This would equal the total amount of offshore lands leased over the past 20 years and would represent one-fifth of all the offshore lands existing between state waters and waters to a depth of 660 feet, the present practical limit for offshore drilling.

The point is not that drilling will begin immediately on 10 million acres of ocean floor off the Atlantic coast or in the Gulf of Alaska. It is that, as early as October—roughly 120 days from now—decisions could be made that would turn over vast tracts of public lands to private interests and commit this country to an energy policy based on drilling for oil and natural gas under conditions that are still only partly understood.

Oil technology has come a long way since the drilling spill that released 16,000 tons of oil into the Santa Barbara Channel in January 1969 or the infinitely smaller spill off West Falmouth that same September. But scientists at Woods Hole are still learning from the West Falmouth incident which dumped 650 tons of refined oil near the entrance to the Cape Cod Canal.

One of their first findings was that, although oil was never seen in West Falmouth Harbor, shellfish died there within 24 hours of the spill. The more serious discovery was that half a year later the polluted area had increased tenfold to cover 5000 acres offshore and 500 acres of marsh. Oil conclusively tied to the spill is still present in the marsh four and a half years later. This may have serious implications in terms of the chronic seepage from drilling rigs on the ocean floor and from oil-water separators on drilling platforms and its effect on the micro-organisms that are the basis of the marine food chain.

So far there has been no major incident in Britain's North Sea where exploration and drilling has been underway since 1969.

But production has not yet begun in any of the North Sea's 16 oil fields. And it remains to be seen whether new technology, including steel and concrete-encased well heads on the seafloor, giant seabed storage tanks and huge semi-submersible drilling platforms can prevent damage. Meanwhile the related development boom onshore has been a mixed blessing to Scotland's small coastal towns.

Once again environmentalists are being called obstructionists as they plead for caution. But Rep. Michael Harrington of Massachusetts has repeatedly emphasized that he and others are not opposed to deep sea drilling.

They want to examine alternatives and make sure that the penalties, in terms not only of deep sea and coastal pollution, but of the social and economic impacts to onshore communities, are minimized.

A 12-month study by the President's Council on Environmental Quality, released April 18, estimates that unexplored offshore oil deposits may be double the country's proven reserves of 37 billion barrels, with as much as 10–20 billion barrels in three broad locations on the Atlantic shelf.

This represents a sharp downgrading of earlier estimates, following exploratory drilling near Sable Island off Nova Scotia, where nothing has been found to date. But, with the country now using six billion barrels of oil a year (17 million barrels a day), of which one-third must be imported, and with energy consumption in the United States increasing at four percent a year, the Administration is determined to press hard for new development on the continental shelf.

A Bureau of Land Management survey released last week and reflecting the oil companies' private evaluation of offshore drilling areas in the United States, lists Georges Bank off New England as seventh-to-ninth in potential production among 17 areas to be studied by the Interior Department this summer, But, because of its high CEQ rating in terms of ecological safety (based on distance from shore, wave heights and low earthquake potential), George Bank along with the Baltimore Canyon remains a prime target in the campaign for "Project Independence."

Clearly the time to reflect is before drilling starts, not afterwards. A preliminary report from the Ford Foundation's Energy Policy Project, issued March 31, strongly suggests that a national energy policy should be established before turning public resources over to private industry. Savings in energy consumption should be pushed. The cost-benefits of alternative sources of energy such as nuclear power or deep-mined coal should be weighed. And consideration should be weighed. And consideration should be given to withholding the outer continental shelf for other uses or as a strategic resource for the future.

Monte Canfield Jr., deputy director of the Ford Project who was charged with oversight of the BLM's leasing activities at Interior from 1969 to 1972, flatly told us that "there is no reason to go into the Atlantic or the Gulf of Alaska." He cautions that the 10 million acre leasing goal is four times what the National Petroleum Council set as a maximum goal in its own study. "Industry can't handle this. It's like putting a drunk in front of a bathtub of gin and giving him a straw to drink with." He predicts the "dumping" of 10 million acres at "bargain prices" will reduce competition, deny the public fair return for its lands, and simply foster increased and unnecessary production as a self-fulfilling prophecy.

As a sign of the government's eagerness to forge ahead, a representative from the Department of Interior recently indicated to the New England Council that, contrary to an earlier understanding that no action would take place until the U.S. Supreme Court rules in the five-year-old battle between the Federal government and the state of Maine et al over territorial boundaries. Interior will go ahead with leasing on the Atlantic shelf and "hold the money in escrow," which means the general treasury.

A major weakness in the on-rushing pro-

ceedings is that most of the information related to oil and natural gas is confidential and comes from the oil industry itself. Some direct form of Federal participation in oil development could provide a valuable check against private exploitation of the public interest. Perhaps the licensing and regulating functions of Interior should be separated as they were recently in the case of the Atomic Energy Commission. And the release of impounded funds under the Coastal Zone Management Act of 1972 could be used to establish estuarine sanctuaries and to plan against what CEQ describes as "permanent degradation of the environment and unnecessary disruption of traditional values" near oil-related facilities onshore. Also, if measures are taken to increase supply, parallel action should also be taken to reduce the wanton consumption of energy in the United States.

Like Rep. Harrington, we're not against deep sea drilling per se. We are against a wholesale ravaging of the continental shelf for the sake of a slogan and token independence.

WYOMING COW-BELLES NAME ESSAY WINNERS

Mr. HANSEN. Mr. President, it was my privilege to be in Laramie, Wyo., last weekend for the annual Wyoming Stock Growers and Cow-Belles Convention.

One of the things that happened at the convention brought home to me once again the things that make Wyoming a special place and the Wyoming Stock Growers Association and Cow-Belles very special organizations of that State. And that was the awarding of the Beef for Father's Day essay contest winners.

Rodney Drury of Casper was named first place State winner for the best essay entitled "Why My Father Should be Father of the Year."

Ronda Watson of Sundance was awarded second place and Lisa Collins of Douglas and Anita Ring of Huntley tied for third place.

Almost every county in Wyoming had participation from fourth and fifth grade students and their essays were entered in the county Cow-Belle contest and the three best essays from each county were sent on to the State committee where they were judged.

Mrs. Leonard Masters, Wyoming Cow-Belle president from Ranchester; Velma Doyle, information director, and Mrs. John Rankine, Cow-Belle beef promotion chairman, worked hard on the 1974 contest. Mrs. Masters, who helped judge the letters, said:

We smiled a little and cried some when we judged these essays. We found that some of the qualities the youngsters appreciated most in their Dads were that they did things with them to teach them right from wrong. They all loved their Dads and were very proud of them. We enjoyed all the fourth and fifth graders for their efforts and inspiration.

Mr. President, I ask unanimous consent that Rodney Drury's winning essay be printed as a part of the RECORD.

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

WHY I THINK MY DAD SHOULD BE FATHER OF THE YEAR

My father's name is Hahlon Drury. He has to be both a mother and father since my mother has passed away.

He does many things for my brothers, my sister and me.

He takes us places, buys our clothes, cooks some of our meals. He also teaches us what is right and wrong.

He buys us what we need and some things we want.

He also helps us with our pets, but best of all he loves us with all his heart.

That's why I think my Dad should be Father of the Year.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for the past 6½ years, I have daily urged the Senate to ratify the Genocide Convention accords. Today I again implore the Senate to seize the role of world moral leadership and adopt this treaty.

There are those critics who call supporters of the Genocide Convention mere dreamers and idealists for thinking the destruction of national ethnic, racial or religious groups. But Mr. President, my answer to these critics is this: If the United States is to gain the confidence of the world's peoples and thereby achieve its stated foreign policy objectives of world peace and freedom, then the United States must demonstrate its commitment to moral leadership in the world by taking a firm legal and official stand against genocide. Human rights and world peace are intrinsically related. Where the basic rights of people are threatened, peace itself is threatened. All too often, unchecked domestic oppression has grown into foreign aggression, as demonstrated by the example of the Axis powers during World War II.

That a written document, such as the Genocide Convention, when duly enacted can have a great impact in the lives of men is evidenced by the impact of the Magna Carta, the English Bill of Rights of 1689, the U.S. Constitution, and the American Bill of Rights. As the ABA section of individual rights and responsibilities noted in 1969:

In each of the states in the development of human liberty how much significance did a given document, amendment, or judgment have? In detail, of course, the answer varies from instance to instance. Speaking broadly, however, it is fair to say that the documents which became landmarks were produced when the time was ripe for them (or perhaps a little before), and that their impact went far beyond the immediate and enforceable issue. The lasting documents were persuasive documents, and they changed men's minds and men's lives.

Mr. President, the time for the United States to ratify the Genocide Convention has long been ripe and the Senate ought to adopt it immediately.

ANOTHER DAY OF MEMORY FOR LITHUANIAN AMERICANS

MR. HRUSKA. Mr. President, earlier this year I addressed the Members of the Senate on the occasion of Lithuanian Independence Day. June 15 is another important day on the calendar for Lithuanian Americans. It marks the day some 30 years ago when the Soviet Union forcibly annexed this small European state.

No freedom loving American can look at what happened to the nations of East Europe without feeling a sense of loss and regret. The brave peoples of these nations had little chance to defend themselves against the Soviet Union. They stand today as a sad reminder of that period of East-West confrontation which began even before the guns from World War II were silenced.

When I spoke last February, I called attention to the fact that the world is a far different place than it was three decades ago or even 5 years ago. That is due in large measure to the successful diplomacy initiated by President Nixon in 1969. In that short span of time, he has accomplished a remarkable transformation in world diplomacy. Soviet-American "détente" has replaced the angry mistrust of the cold war.

"Détente" gives new hope to all peoples of the world including those of oppressed nations. I said in February and repeat again today with even greater conviction:

When ideas can begin to flow between the United States and the Soviet Union, then perhaps they can begin to trickle throughout the Communist world.

President Nixon is now in the Middle East on a visit of historical dimensions. He goes to this troubled spot of the world to build upon agreements already worked out by Secretary of State Kissinger. Following this visit, he will travel again to the Soviet Union for further negotiations to strengthen the policy of "détente."

On this somber occasion of remembering June 15, 1940, we can also look with hope to the future. Perhaps the day will come when the light of freedom will again shine for the brave peoples of Lithuania. Certainly, this is the prayer of each of their relatives in this country and for every citizen of the world who values freedom and human decency.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks, a letter I have received from Mr. Danguole Antanelis relating to Lithuania. He is a member and representative of the Association of Young Lithuanian Americans. His ideas and views contain very worthwhile suggestions. I recommend to my colleagues a careful reading of this letter.

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

ASSOCIATION OF YOUNG LITHUANIAN AMERICANS,
May 28, 1974.

DEAR ROMAN HRUSKA: On June 15, 1974, Lithuanian Americans will join with Lithuanians throughout the free world in the commemoration of the forcible annexation of Lithuania by the Soviet Union in 1940, and the subsequent mass deportation of thousands of Lithuanians to Siberian concentration camps.

Currently Lithuanians are denied the right of rational self-determination, suffer continual religious and political persecutions, and are denied their basic human rights.

The Soviet Union is now seeking détente, as well as Most Favored Nation status with the United States. The desire on the part of the Soviet Union presents the United States with a unique opportunity to ease the plight of the people in Lithuania and the other Captive Nations.

The Policies which we recommend be pursued are:

(1) Lowering of excessive tariffs imposed on gifts to relatives and friends residing in Baltic States.

(2) Increase current five-day tourist visa to Lithuania to a more reasonable limit.

(3) Elimination of unreasonable travel restrictions on tourists to Lithuania.

(4) Provision for Lithuanians to immigrate to other countries as provided by the Charter of the United Nations—signed by the Soviet Union.

We are seeking your assistance, together with your fellow members of Congress, to bring these issues to public attention. This can best be done in conjunction with your remarks concerning the observance on June 15 on the floor of the Senate. While the Senate will not be in session on June 15, 1974, please schedule your remarks as close to that date as possible. We would appreciate receiving a copy of the Congressional Record containing your remarks.

With all due respect.

DANGUOLE ANTANELIS.

MINORITY VIEWS ON S. 707, THE CONSUMER PROTECTION AGENCY ACT

Mr. ERVIN. Mr. President, on May 29, for myself and Senators ALLEN, NUNN, and BROCK, I filed part II of Senate report 93–883 which contains the minority views on S. 707, the Consumer Protection Agency Act.

This proposed legislation, which is now pending on the Senate Calendar, would create a new independent Federal agency, headed by an administrator, appointed by the President, subject to Senate confirmation. This administrator would have the broadest possible powers to intervene in the administrative proceedings of every Federal department and agency as of right and as a party, and to seek judicial review of the decisions of such departments and agencies. The sole standard contained in the measure, upon which such intervention would be based, is his determination that the result of a pending action may substantially affect the interests of consumers which are defined in the bill as covering just about everything.

Mr. President, in my judgment, concurred in by many others, this bill is one of the most pervasive and far-reaching pieces of legislation ever to come before this body. It would affect dramatically the interests of all of the American people, and it contains the seeds for bringing to a halt the effective operation of this Government by imposing the machinery for interminable delays in proceedings which are being carried on daily by virtually every Federal department and agency, involving the interests of hundreds of millions of men, women, and children.

Because of the far-reaching and pervasive coverage of this bill, it is vital that the people of this Nation have a full and complete understanding of what the bill is likely to do to the operations of this Government which affect their daily lives. Congressional reports and documents have a very limited circulation. The CONGRESSIONAL RECORD, however, is widely circulated and widely read. Although these minority views have only been available for a few days, we have had an overwhelming demand for copies.

In order that the American people have an opportunity to understand the issues and be aware of the true nature of this measure, I ask unanimous consent that part II of the Senate report 93–883, which contains only 26 pages, be printed in full in the RECORD, following my remarks.

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

CONSUMER PROTECTION AGENCY ACT

MINORITY VIEWS

[To accompany S. 707]

S. 707 would coronate a Caesar within the Federal bureaucracy.

With deference to Shakespeare, we say to other supporters of consumer rights that our support is no less than theirs; that we rise against this Caesar not because we desire consumer protection less, but because we desire good government more.

INTRODUCTION

This bill would create an independent Federal Consumer Protection Agency—a "CPA"—to decide for consumers what is in their best interests, and then to make sure that that decision is acted upon inside and outside the Government.

We believe that a CPA such as that proposed in S. 707 is a bad idea whose time has come and gone, and we urge the bill's rejection or, at least, its extensive revision after thorough consideration. We do so for the following major reasons:

I. S. 707 is bad in theory, being conceived out of a paranoid fear of businessmen and farmers, a patronizing attitude toward consumers and a paradoxical view of the role of Government.

II. S. 707 grants powers to a political appointee who would be responsible to no one, powers which no responsible official would use and which no irresponsible official should have.

III. S. 707 will result in the subversion of the public interest to the often conflicting special interests of consumers, as these special interests are defined by a corps of bureaucrats.

IV. S. 707 is, itself, a fraud upon consumers who have been led to believe it is the answer to their day-to-day problems and frustrations.

V. S. 707, if enacted, will lead inexorably to the creation of other special advocacy agencies representing interests just as important as those of the consumer which are threatened by the existence of a powerful CPA.

These matters deserve discussion in some detail, both in these views and during consideration of this bill on the floor.

I. S. 707 IS BAD IN THEORY, BEING CONCEIVED OUT OF A PARANOID FEAR OF BUSINESSMEN AND FARMERS, A PATRONIZING ATTITUDE TOWARD CONSUMERS, AND A PARADOXICAL VIEW OF THE GOVERNMENT

At the Constitutional Convention of 1787, Gouverneur Morris observed that, "The most virtuous citizens will often as members of a legislative body concur in measures which afterwards in their private capacity they will be ashamed of."

A study of the underlying theories of S. 707 will lessen the probability of such shame redounding to Members of the Senate by increasing the probability of this bill's rejection.

We are asked to believe that most, if not all, businessmen are scheming swindlers whose every action must be subject to review and attack by consumer protection agents who have been untainted by any business experience more responsible than a paper route.

We are asked to believe that all consumers are mental midgets who must look to Washington to find out how to manage their personal lives from some bureaucratic consumer "representative" who will have neither the time nor the knowledge to shop for and cook a decent supper.

We are asked to believe that existing Federal agencies are incapable of protecting consumers because not enough consumers appear before them, and that the answer to this problem is not to devise ways for more consumers to appear before such agencies or to revitalize these units, but to create another agency to appear before them.

The "capture" theory

Proponents of the CPA concept will rely most often upon the so-called "capture" theory to substantiate the need for a CPA. According to this theory, the regulatory agencies designed to protect the public are always "captured" by the very interests they are supposed to regulate, bending to the will of these special interests with whom they are in constant touch.

This theory is an oversimplification of a complicated problem well recognized in several economists' circles—a problem caused by the fact that the Federal Government has gotten too large and too pervasive, a problem which decidedly cannot be solved by making the Government even larger and more pervasive.

Professor James Q. Wilson defines the problem with more precision: [1]

"[T]he agencies are not so much industry-oriented or consumer-oriented as *regulation-oriented*. They are in the regulation business, and regulate they will, with or without a rationale. If the agencies have been "captured" by anybody, it is probably by their staffs who have mastered the arcane details of rate setting and license granting."

Anyone need merely pick up a single copy of the *Federal Register* to see why businesses need to be in constant touch with the agencies that attempt to regulate them down to the last detail. Consider, for just one example, this regulation of the Food and Drug Administration: [2]

"Each plant shall provide its employees with adequate toilet and associated handwashing facilities within the plant. Toilet rooms shall be furnished with toilet tissue. . . . Signs shall be posted directing employees to wash their hands with cleaning soap or detergents after using toilet."

That brilliant bit of rulemaking probably cost the taxpayers thousands of dollars while bureaucrats pondered over its need. Add the CPA to this process and we probably shall have the grade of the toilet tissue specified, the required signs in specified colors, and the detergents banned.

It should be obvious that, even if we accept the "capture" theory without question, it does not follow at all that another fallible Federal agency is the solution. Professor Milton Friedman, in commenting on consumer activists who rely upon the "capture" theory has stated that you might expect these activists "to draw the obvious conclusion that there is something innate in the political process that produces this result; that, imperfect as it is, the market does a better job of protecting the consumer than the political process. But no, their conclusion is very different: establish stronger agencies instructed more explicitly and at greater length to do good and put people like us in charge, and all will be well. Cats will bark." [3]

Before leaving the capture theory, we note an irony with its use in relation to the CPA. As the debate on this bill will probably prove, we shall hear this theory expounded to

[1] Wilson, paraphrasing Louis Jaffe—"The Dead Hand of Regulation," 25 *The Public Interest* 47–48 (1971).

[2] 21 C.F.R. ¶ 128.5(d).

[3] Newsweek, Feb. 19, 1973, at 70.

show the devilment that the business community is supposed to be responsible for.

The advocates of S. 707 keep forgetting about the capture theory in relation to organized labor. Perhaps we should return to Professor Wilson again: "Indeed, if any agency has been 'captured' by its clients, it has been, under certain Presidents, the National Labor Relations Board. . . . (Curiously, academic criticism of business domination of regulatory agencies rarely extends to organized labor influence in the NLRB.)"[4]

In this regard, it is interesting to review section 6(a)(11 of S. 707 wherein organized labor has been granted a full exemption for many of the consumer-affecting activities of Federal labor agencies such as the NLRB. But that is a subject for a later section of these views.

No examples showing a need for a CPA

A review of the extensive hearings on S. 707 will reveal much preaching, praying and puffing, but not a single concrete example which demonstrates the need for a CPA such as the one now being proposed.

One would think that a bill of this magnitude would be supported by hundreds, if not thousands, of citations to Federal agencies and businessmen bilking the consumer in ways the CPA could best prevent. The few Federal activities cited by proponents of a CPA as allegedly showing a need for a new consumer advocacy agency do not withstand even the most superficial scrutiny.

Some of these examples are cast in light of agency officials being malfeasant, deliberately not doing their assigned jobs. This leads to two conclusions never drawn from the examples: (1) If you can prove malfeasance, you can have these officials fired; you do not need a new agency to do this, and (2) if officials in existing agencies can be malfeasant, so can officials in the new CPA—and we shudder to think about what could happen with malfeasants who have the power that would be bestowed by S. 707.

Most of the examples are judgmental or the result of Monday morning quarterbacking for which the CPA would be no more reliable than anyone else. Some raise questions about agency priorities, a subject more proper for legislative than CPA oversight. Some state problems which were solved by the responsible agencies soon after being stated.

It seems to us the rankest form of speculation to cite a particular Federal activity with which one disagrees, and then to assume that if there had been a CPA in existence that the CPA would have agreed with your viewpoint and forced its sister agency to take any different action than was taken.

The point is that the CPA is given complete discretion to do virtually anything it wants anywhere it wants within the Federal administrative process. No standards, or guidelines worthy of the name have been written into the bill.

II. S. 707 GRANTS POWERS TO A POLITICAL APPOINTEE WHO WOULD BE RESPONSIBLE TO NO ONE, POWERS WHICH NO RESPONSIBLE OFFICIAL WOULD USE AND WHICH NO IRRESPONSIBLE OFFICIAL SHOULD HAVE

Diligent efforts have been made by some to present this bill as mild, innocuous, traditional land inevitable. It has been cloaked in grandmotherly rhetoric which hides the wolf lying beneath. A close review of the bill's complex provisions will, however, reveal that the CPA's powers are to be far broader than the simple goals by which its proponents are making it known.

This CPA has been modeled after what its proponents purport to despise most. The CPA is to be a bare knuckle lobbyist for a special interest within the larger public interest, a lobbyist with more power, money and prestige for its purposes than any we have heretofore seen, a lobbyist able to insinuate itself where no others have dared, to get information that no others could know existed, to use the force of law like no others dreamed.

If we are to believe the proponents of this bill that legislative oversight is totally ineffective in controlling agency actions, then we shall have a CPA which is absolutely free of any control and responsibility. Until fiscal year 1977, when new authorizations must be sought from the Senate Committees on Government Operations and Commerce, it answers to no one but its appropriations committee, whom it is authorized to lobby along with other Members of Congress.[5]

Have we forgotten Mr. Justice Frankfurter's admonition: "If one man can be allowed to determine for himself what is law, every man can. That means first chaos, then tyranny. For legal process is subject to democratic control by defined, orderly ways which are part of the law. In a democracy, power implies responsibility."[6]

The power of independence

The CPA Administrator is responsible to no one in deciding for consumers what is in their best interests. The Administrator is totally isolated from supervision by any elected official. He or she is to be appointed for a fixed term coterminous with that of the President, and may be removed only for inefficiency, neglect of duty or malfeasance in office. Sec. 5(b)(1).

This is one of several provisions which has forced the present Administration to oppose S. 707, unless amended. Once ensconced, the CPA Administrator can, in practical effect, do as he pleases within the broad confines of this bill.

Which leads us to this thought: The power of a CPA to disrupt the priorities of any Administration is clear, as will be shown later; in fact, the CPA, under S. 707, may invade the Office of the President almost at will.

How do we guard against the distinct possibility that any person chosen by the President to be the CPA Administrator will be first screened for absolute loyalty? The fact that the Senate must confirm this nomination does not appear to be sufficient protection against this probability. If the Senate fails to confirm, there is no CPA Administrator; if it confirms, it cannot touch the Administrator for any reason; it can only cut off its nose to spite its face by not funding the agency.

The power to decide what is best for everyone

To understand the vast powers this CPA Administrator would have, it is necessary to begin with two definitions set forth in S. 707. The first takes five lines to define "consumer" as meaning every human being in this world (and, considering space flights, beyond). For those who may find difficulty believing this, here is the definition of consumer as it appears in section 4(7) of S. 707; no human being could possibly be left out:

"Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family or household purposes.

The next definition is that of the "interest of consumers," a much more complicated and lengthy provision which can be reduced, for practical purposes, to one word: "anything." Here is the definition, as found in section 4(11) of S. 707:

"Interest of consumers" means any health, safety, or economic concern of consumers involving real or personal property, tangible or intangible goods, services, or credit, or the advertising or other description thereof, which is or may become the subject of any business, trade, commercial, or marketplace offer or transaction affecting commerce, or which may be related to any term or condition of such offer or transaction. Such offer or transaction need not involve the payment or promise of a consideration;

What could possibly be omitted? The real clincher, however, is found in section 14(e)(1) and (2) which explicitly provide that the CPA Administrator's determination of what is in the interest of consumers is not reviewable in court by anyone.

The excessive resources and powers generally

One of the most patently absurd myths being propounded in relation to this bill is that the CPA merely will be on parity with other special interest advocates; that is, the CPA will simply be placed on an equal footing with business interests who appear before Federal agencies to protect their interests.

Nothing could be further from the truth. What this bill does is to take the strongest advocacy powers available to regulatory agencies, and grant them to the CPA without delegating the responsibilities which go along with these powers; it then takes the strongest rights of private citizens available to no governmental unit, and blends them into the CPA recipe; next it adds a generous measure of rights never given to *either* a governmental unit or private person, and, finally, sprinkles this power pie with millions of dollars to make sure that the CPA will overwhelm all proponents of other viewpoints.

On this last point, proponents of this bill will also be quick to point out that the CPA will "only" have an appropriation of $25,000,000 during its third year, and that this is a "paltry" sum. It may be paltry compared to some of the overly-fat existing Federal agencies which have been granted substantive programs, but it is a huge sum compared to the monies which will be available to advocates of differing viewpoints in the Federal forums in which the CPA will use most of this money. And this is not to mention the fact that, under this bill, the CPA is to draw upon, free or at cost ,the considerable resources of existing agencies to make sure it wins its point.

The advocacy functions of the CPA are its prime purpose in life, as the majority views in the Committee report make clear, not to mention the findings in the bill, itself. The report also makes clear that it is intended that the CPA concentrate its resources on relatively few proceedings and activities of other Federal agencies, because that is all it will have time for in the huge multi-ringed Federal forums of action.

A very conservative estimate of the amount of CPA resources which are intended to be devoted to its advocacy function, we would say, then, is seventy-five percent per year. Taking the figure of $25,000,000 for its third year of operation, this would mean that we could, very conservatively, expect at least $18,750,000 spent on or in support of consumer advocacy by the CPA in that one year alone, not to mention all of the free services it will have other Federal agencies perform for it.

Concentrating such resources into the expected relatively few proceedings, and using the extraordinary powers granted to it, will, indeed, make the CPA a super advocate.

What is continually forgotten by adherents to the parity myth is that the CPA's business will *be* such litigation, and that the business firm's role is to attempt to *avoid* litigation. There will be no private party who will be able to match the resources or the powers that the CPA could put into any one proceeding.

---

[4] Wilson, op cit., 48–49.

[5] Sec. 6(a)(9), S. 707, the word "lobby" is used in the practical, nontechnical sense, since the CPA technically speaking will be merely furnishing information and views and subject to 18 U.S.C. 1913 and 31 U.S.C. 15.

[6] *United States* v. *Mine Workers*, 330 U.S. 258 (1946) at 312 (concurring).

Another commonsense element never mentioned by those who propound this parity myth is that you cannot equate *all* business advocacy and treat it as an entity worthy of matching Federal consumer funds. The same companies do not exercise advocacy powers in relation to the same Federal programs.

A car manufacturer will care little what the Federal Food and Drug Administration proposes as a proper percentage of peanuts in peanut butter.

In addition, there is most often no unified business front on any given Federal proposal—a reading of any rulemaking file will show that businessmen are advocating against businessmen most of the time, each attempting to protect as best he can his own legitimate interests. And, none of these has millions of dollars to spend annually for this purpose. One of the very few situations where you will find unity of diversified, legitimate businesses is in relation to this bill—with minor exceptions, they oppose it virtually without exception.

Finally, completely overlooked in this parity myth is the fact that many businesses simply cannot afford adequate counsel and advocacy *themselves*—small, medium and even large companies often cannot keep up with the layers upon layers of bureaucracy propounding regulations and adjudicating issues. It also would seem obvious and fair to say that, in terms of numbers, small businessmen are the targets of more Federal actions than are large businessmen.

We ask that these all-too-often overlooked factors be kept in mind as we proceed to discuss some, just some, of the overreaching powers to be granted to the CPA. We also ask the Senate to remember that the CPA will—*alone* and without *any* possibility of being successfully challenged—determine what is in the best interest of consumers. Having done this, it is likely to use these extraordinary powers to make certain that that unchallengeable determination is implemented inside and outside the Government.

In addition, leaving aside the question of resources and considering only the proposed extraordinary powers for the CPA, the words of Oliver Wendell Holmes come to mind: "The prize of the general is not a bigger tent, but command."

The power to meddle where no others dare

S. 707 gives the CPA authority to insinuate itself into everything another Federal agency, or any of its employees, could possibly do.

For this purpose, the bill divides what the Federal Government does into two broad categories: (1) "agency proceedings," that is, the more formalized and structured decisionmaking of existing Federal agencies, and (2) "agency activities" which include *anything* else that a Federal agency may or can do, especially unstructured efforts sometimes called "informal" action.

The terms "agency activity" and "agency proceeding" are defined in the bill at section 4 (4) and (5), and used as words of art throughout the bill to define the CPA's powers, especially, but not exclusively, its advocacy powers under section 7.

At this point, we should like to focus attention on the CPA's powers to disruptively meddle in the often inchoate and very informal "activities" of Federal agencies before they reach any stage at which the public is invited to comment or otherwise participate in a structured proceeding.

Let us use an example for clarity—trade negotiations with foreign governments. This illustration is picked because it is one of many target areas specially intended for CPA intrusion.

To cite but one example of this intent, look at the Majority Report's explanation of the term "commerce," as that term appears in section 4 of S. 707. The majority states that, "The inclusion of foreign nations in the definition of the term 'commerce' reflects the intention that the Consumer Protection Agency be permitted to fulfill its responsibilities in [Federal agency] activities which may involve trade." Then, in its explanation of subsection 7(b) of the bill, the Majority Report states that, "Among the activities [of Federal agencies in which the CPA may participate] are the . . . initiation of action of any kind with respect to negotiation. . . ."

The State Department being a target agency for the CPA under this bill, let us consider what the CPA could, as a matter of unchallengeable right, do in regard to Secretary of State Kissinger's negotiations which may relate to trade of fuel products to this country from the Middle East.

There can be no doubt that these negotiations may substantially affect the interests of consumers in this country, and the fact that these negotiations may involve other, overriding factors of the public's interest in national security is irrelevant under this bill. The CPA cannot, under any circumstances, be stopped from participating in these negotiations.

The first thing the CPA might do would be to specifically request, under subsection 9(b), information which this provision of S. 707 requires the State Department to "promptly provide" to the CPA; namely—

(1) a brief status report which shall contain a statement of the subject at issue and a summary of proposed measures concerning such subject [such as, in this example, fall-back negotiating positions of the U.S.]; and

(2) such other relevant notice and information, the provision of which would not be unreasonably burdensome to the agency [i.e., State Department] and which would facilitate the [CPA] Administrator's timely and effective participation under section 7 of this title.

At this stage, the State Department is not *obligated* to give the CPA raw information which has been classified in the interest of national defense or security; it may, if it wishes, merely summarize from such classified material in providing the CPA with the information which must be turned over to the consumer advocates. See paragraph (1) of subsection 11(c).

This specific request would be made "continuing in nature," that is, the bill recognizes that informal activities move from stage to stage, and that the CPA's participation rights in them move right along and are renewed at each stage. Therefore, the CPA need make only one specific request under subsection 9(b) for continuing status reports and summaries of proposed measures to be taken by the State Department at each stage of the negotiations.

It should also be noted, as the Majority Report states in its explanation of section 9, "Whenever there is any dispute between the Federal agency [i.e., in this case, State Department] and the CPA over whether a particular action or type of action may substantially affect the interests of consumers, the Federal agency [i.e., State Department] shall *defer to the CPA's determination*." [Emphasis added.]

In exercising its advocacy functions to participate in the trade negotiations, the CPA is given the rights, under subsections 7(b) and 7(d), to participate in this agency activity and to request or petition the State Department to take action which the CPA feels to be best for consumers.

These rights, it should be reemphasized, are continuing in nature with each new phase of the negotiations. As the Majority Report states, in its explanation of section 7, "The Administrator [of the CPA], under subsection (b), has the right to participate . . . at all stages of an agency activity. The fact that he has participated in the investigatory phase of an activity does not impair his right to participate in a later phase of the activity."

Participation by the CPA in trade negotiations or any other informal activity under this subsection 7(b) may be by "presenting written or oral submissions" to the forum agency *at each stage* of the activity. These submissions need not be simultaneously submitted with those of another person, but "the Federal agency [e.g., State Department] shall give full consideration" to these submissions of the CPA before taking action.

The Majority Report crystalizes, for those who are not familiar with this bill's intricate legal provisions, how extraordinary a right of advocacy this is to be. In its explanation of subsection 7(b), the majority notes that the CPA, and *not* the forum agency such as the State Department decides whether the CPA's submission is to be oral or written, and that—

"The provision does require, however, that the *CPA have a full opportunity* to submit its views to the decisionmaking authority before any decision is made either to take, or not to take, certain action, where the CPA determines that a substantial consumer interest is at stake. The specific requirement that the agency give full consideration to the [CPA] submission is intended to insure that the rights extended by this subsection are meaningful. The Federal agency [e.g., State Department] may not brush aside such submissions arbitrarily, capriciously, or in a pro forma manner. Each agency is required to afford the CPA as *equal an opportunity* to present its views as are afforded business representatives and *other parties* interested in the same agency activity." [Emphasis added.]

Has anyone seriously considered the implications of these powers? In our example, Secretary Kissinger must keep the CPA continually informed of all *expected* and actual activity at each stage of the negotiations, must listen to the CPA before making a decision at each stage, and must give the CPA an opportunity equal to any other party—equal opportunity to the person negotiating for a foreign nation, be he king or minister.

Can anyone imagine the Secretary of State telling some sheik, "Excuse me, before I decide on your new proposition, I must contact the Administrator of the Consumer Protection Agency or one of his agents." It would appear that an advocate of the CPA will have to fly around with the Secretary of State—that would be the only way possible to comply with the letter of this proposed law.

But the worst is yet to come. If the CPA, under subsection 7(d), requests the Secretary of State to take particular action during these trade negotiations, and the Secretary fails to take the requested action—the Secretary must notify the CPA in writing why he refused to act, and this writing is to be a matter of public record.

Then, to top that, the CPA is authorized, under subsections 8(a) and 14(e) to take Secretary Kissinger to court to seek review of the Secretary's refusal to act as requested by the CPA or to give the CPA a full opportunity to participate.

The prospects for disruption and delay contained in the proposed power for the CPA to participate in any informal Federal activity of its choosing are apparent. We just use a topical example to illustrate them. For those who might say that this is an extreme example, we say that it was specifically contemplated, as evidenced by continued reference to trade activities in the legislative history of this bill, including the Majority Report.

We also point out that the genesis of this CPA bill is dissatisfaction over Federal agencies who have not done as their supporters thought they would. And, if the potential supporters of the CPA accept this theory and believe in the scientific method, then

we must assume that the CPA will not act as they think it will.

The power to be a dual prosecutor

Moving from the informal to the more formal agency proceedings in which the CPA is given extraordinary rights to advocate its special interests in public interest forums, let us again just focus on one area—adjudications of alleged violations of law by Federal agencies.

An example of such a proceeding most often cited by proponents of a CPA is found in the Federal Trade Commission: The FTC's proceedings to determine whether a deceptive act or practice has been committed in violation of the Federal Trade Commission Act. Under that Act, Congress has delegated to the FTC quasi-judicial powers to adjudicate such violations because such adjudications take a special form of expertise which would more efficiently be handled administratively than in a court of general jurisdiction.

This is a proceeding subject to 5 U.S.C. 554, and, therefore, one in which the CPA may, as of unchallengeable right, intervene as a party to represent consumer interests under subsection 7(a) of S. 707.

The FTC has consistently refused to all consumerists the right to intervene as full parties in such adjudications, and is on record in a letter to Senator Allen during the last Congress as not being able to support such an extraordinary right in its adjudications.[7] Why this is such an extraordinary power might not be readily apparent to those who are unfamiliar with this type of adjudication and the rights of a party in it.

These adjudications, as are all formal agency adjudications subject to the Administrative Procedure Act, are required to be mini-trials conducted with a record of the proceeding and decided upon the basis of evidence contained in that record. This is to preserve the due process rights of the party charged with the alleged violation.

In an FTC adjudication of the type mentioned, there are really only two "parties"—the company or businessman charged with the alleged violation, called a Respondent, and the FTC prosecutor, called a Complaint Counsel, who acts as an advocate before a FTC Administrative Judge or the Commission, itself.

Neither competitors of the respondent nor consumers of his products or services have a right to appear as a party, although they may be allowed to intervene at certain levels as limited intervenors for a particular evidentiary purpose, or, as amicus curiae.

The reason that an outsider has no right to appear as a party is because party status carries with it certain rights pertaining to putting information into the record upon which a decision must be made. If a party can dominate the record, his position will usually prevail. These rights relate to primarily the production or questioning of evidence, and include such powers as cross-examination of the other party's witnesses, introduction of your own witnesses, subpena power, and the like.

The FTC staff, through its Complaint Counsel, prosecuted its charge with use of these powers, and the respondent has an equal opportunity to defend. Under subsection 7(a) of this bill, the CPA could enter such a proceeding, as of right, as a full party—the FTC could not throw the CPA out or downgrade its intervention status, no matter who complained.

Proponents are fast to point out that the CPA could intervene, if it wished, as a party-respondent to help defend the accused businessman. A simple reading of any of the hearings on proposals to establish a CPA ought to make it clear that the likelihood of the CPA intervening to protect a businessman charged by the FTC with a deceptive act is extremely remote. Besides, even if an accused businessman did not want such help, he would be given an offer which, by law, he could not refuse.

The real probability, however, is that the CPA will intervene on the side of the FTC prosecutor as *another* full party-prosecutor—whether or not the FTC prosecutor thought this was a good idea.

Now, consider what happens once the CPA orders the FTC to let it in as a dual prosecutor: To the extent that the CPA follows a line of prosecution identical to that of the FTC prosecutor, we have useless, expensive and delaying duplication; to the extent that the CPA's line of prosecution diverges from that of the FTC, we have an outsider not only usurping FTC's congressionally mandated responsibility, but subjecting a citizen (as of yet innocent) to conflicting prosecutions. Very serious due process questions are raised when two prosecutors see who can outprosecute whom.

There is a hortatory clause in subsection 7(a) which proponents rely on to assure us that the CPA will rarely intervene as a party. It says that the CPA shall refrain from intervening as a party, *unless* the CPA determines it is necessary to intervene as a party to represent consumers. This is not only meaningless, it is misleading when offered to calm the business community, because an even more insidious power relative to this point is contained in a later advocacy provision.

Under subsection 7(e) the CPA can achieve many of the important rights of a party without intervening as a party and subjecting itself to like powers by an opposing party. This well-camouflaged provision would grant the CPA the power to order a forum agency such as the FTC to, in turn, issue orders with respect to the summoning of witnesses, production and copying of papers and books of a party or witness and to issue interrogatories which must be answered by a party.

Thus, the CPA could intervene as an amicus curiae, insulated from examination by an opposing party, and force the FTC to proceed down a line of prosecution to the CUA's liking. A prosecutor's dream.

Subsection 7(e) would allow the forum agency only the same amount of discretion to refuse such a CPA demand for party powers as the forum would have in relation to actual parties, themselves. That is, there is no added protection against unfairness or disruption, merely the general rules as to relevancy, burdensomeness and the like which, under the Administrative Procedure Act, apply to all real parties when they attempt to seek greater discovery.

In addition, there is a reference to the fact that a forum agency will issue only orders which are "appropriate" with respect to its rules of practice and procedure. On first glance, one would think that this would give the forum agency some additional discretion in the matter to prevent abuse; but on closer examination of this subsection, one will find that such rules of practice and procedure by a forum agency must be "consistent with subsection (c) of this section" 7 of the bill.

A look at subsection 7(c) will show that proponents of an overreaching CPA need not worry about the CPA's not having more rights than anybody else in any formalized proceeding. This subsection (c) requires each Federal agency, as soon as this bill is enacted, to rewrite its rules of practice and procedure in consultation with the CPA.

What is the purpose of such a massive rewriting of all agency rules of advocacy? The answer is also found in subsection 7(c): "to provide for the [CPA] Administrator's orderly intervention or participation in accordance with this section," that is, in accordance with the unprecedented powers in section 7. So much for the myth that advocacy will be as usual in all federal agencies, with nothing being changed by this bill.

The power to challenge the Government

We now enter into one of the most highly controversial portions of this bill—the unprecedented grant of power to this nonregulatory agency to challenge *at will* the final decisions of regulatory agencies in court. It is an area which, in light of the many debates on this subject, brings to mind Mr. Justice Jackson's quip in *SEC* v. *Chenery Corp.*, wherein he stated, "Now I realize fully what Mark Twain meant when he said, 'The more you explain it, the most I don't understand it.'"[8] It is incomprehensible why the CPA should need such massive power to accomplish its goals.

This power to seek an overthrow of final Government decisions, at the request of a Government agency (CPA), is likely to have a coercive effect upon a forum agency's decisionmaking, a burdening effect upon our already overburdened courts, and a disastrous effect upon public policymaking as mandated by Congress.

The *Chenery* case, mentioned above (and still the law until this incomprehensible bill is enacted), held, in pertinent part, that the courts cannot disturb a final decision of an administrative agency where—[9]

"It is the product of administrative experience, appreciation of the complexities of the problem, realization of the statutory policies, and responsible treatment of the uncontested facts. It is the type of judgment which administrative agencies are best equipped to make and which justifies the use of the administrative process * * *. Whether we agree or disagree with the result reached, it is an allowable judgment which we cannot disturb."

Under S. 707, as explained in more detail earlier, Congress would be delegating to the CPA the administrative expertise to decide what is best for consumers, an expertise which, by virtue of paragraphs (1) and (2) of subsection 14(e), could be challenged by no one anywhere, including in court.

Under section 8 of this bill, the CPA would be granted legislative standing as an expert agency to challenge in court the final decisions of its sister expert agencies. The significance of legislative standing is this: heretofore, the courts generally determined, based upon the facts and law in each case, whether a party bringing a suit was the proper party to bring it.

Thus, to use an unlikely but instructive illustration, if a Russian General filed suit in a United States Federal Court to appeal a decision by the Atomic Energy Commission allowing for a nuclear explosion in the Aleutian Islands, the court would most likely throw him out as not being a proper party to bring such a suit—he did not have proper standing before the court on this issue. If the CPA, on the other hand, appeared in that court with the same suit, the court could not even inquire into the question of whether the CPA was a proper party—subsection 8(a) is a message from Congress to the courts which says that the CPA shall have automatic standing to sue whenever it appears in court, and the court must go to the merits of the case.

Turning to that subsection 8(a), we note that it contains what is either a drafting error or another attempt to usurp power. This subsection grants to the CPA a right to appeal any "action" of any agency. ("Action," by the way, includes failure to act under subsection 4(3).) Yet, this subsection does not require that the CPA's appeal be in relation to an action which would adversely affect consumers. That is, subsection 8(a), if taken literally, grants the CPA power to appeal a decision on any grounds.

---

[7] See Con. Rec., vol. 118, pt. 24, p. 32065.

[8] 332 U.S. 194, 214 (1947).

[9] Ibid at 208–209.

This subsection 8(a) quite clearly provides that, "The [CPA] Administrator shall have standing to obtain, in the manner prescribed by law, judicial review of any agency action reviewable under law." Grounds for such review are not mentioned anywhere in the bill.

A provision in a later subsection adds to the confusion but does indicate that this sweeping grant in subsection 8(a) was not intended. Subsection 14(g) requires the CPA, upon appealing, to issue a public statement in which it sets forth the consumer interest it intends to represent in court. Perhaps it was intended that this later provision applying to an extra-judicial duty would modify the clear right of the CPA in judicial proceedings.

More significantly at this point, perhaps it is worthy to remember that the definition of "interest of consumer" is broad enough to cover virually anything which might be affected by a Government decision, and, of course, whatever the CPA says is an interest of consumers would be, as a matter of law if this bill is enacted, an interest of consumers.

Thus, whatever confusion is generated by the unlimited grant of judicial review rights to the CPA turns to consternation over the fact that it makes no difference how you view this sweeping bill. It is just another problem in this misconceived legislation for the courts to clear up at some later date.

Returning to the grant of standing in subsection 8(a), what this means, in nonlegal language, is this: If the CPA files the proper papers on time (that is, it follows "the manner prescribed by law"), it will have an unrestricted right to sue (that is, a court may not say the CPA is an improper party) for judicial review of any agency action if anyone under any circumstances could have so sued (that is, if the action were "reviewable under law," as are virtually all Federal actions in one respect or another).

Considering the scope of the CPA's jurisdiction and its rights to interpret its own jurisdiction, this is the most far-reaching right to judicial review ever conceived by Congress, stripping the courts of any shred of discretion to control their own calendars.

This power will not only change the standard of review of Federal actions (although not the scope), it will place a confusing and confounding burden upon our Federal courts, a burden which can only result in the courts making public policy contrary to the very essence of American administrative law.

In practical terms, the courts will be faced with two congressionally-ordained expert agencies; one agency being mandated to balance all special interests and come to a final decision on the basis of the public interest, and another agency challenging that public interest decision on the basis of its explicit right to seek judicial review of such decisions as a representative of a special interest.

There are those who predict that the CPA will not appeal many final agency decisions. The only reason for supposing such a prediction to be true would be that the CPA has enough power, including the threat of suit, to coerce any other agency into acting in accord with the CPA's views. Otherwise, the CPA's initial determination would be a shallow fraud.

That is, when the CPA intrudes into a proceeding being conducted by another agency, it must make a determination that that proceeding "may substantially affect the interests of consumers" (sec. 7(a)), and it must issue a public statement to this effect in which the CPA sets forth the substantial interest of consumers it is going to represent (sec. 14(g)).

Having done all that as the publicized champion of the consumer, does anyone seriously believe that a decision by the forum agency with which the CPA has publicly disagreed will be left unchallenged? Does anybody believe this extraordinary and overreaching judicial review right is going to go abegging in the hands of a Washington bureaucrat, especially one with his reputation on the line?

We also fail to recognize any merit in the argument that the forum agency will always win such court fights. This argument does not recognize the fact that the CPA is to be a congressionally-ordained expert agency fighting another congressionally-ordained expert agency in an embarrassing *U.S.* v. *U.S.* court battle to determine who speaks for the Government.

If one recognized expert says in court that another recognized expert did not give the proper or sufficient weight to the evidence presented in an administrative hearing, it is elemental that the court, on review, must go through all of the evidence and assign its *own* values to the evidence, perhaps even coming up with a decision that neither expert agency agrees with.

Santayana observed that those who are disposed to ignore history must be prepared to repeat it. Yet, we have heard these two soothing but erroneous arguments before—few suits will be brought, and most of these will be won by existing agencies. We heard them in debate on the National Environmental Policy Act which has many striking parallels to this CPA legislation.

In relation to these two soothing arguments which we are hearing now again, consider the recent remarks by one of the leading jurists in this country and an acknowledged expert and scholar on administrative law, Henry J. Friendly, Chief Judge of the U.S. Court of Appeals for the Second Circuit. On the subject of congressional omniscience about litigation, he states: [10]

"One must wonder whether the framers of the seemingly simple formulation [in NEPA] that any Federal agency which proposes any action that "would have a significant effect upon the quality of the human environment" must prepare an impact statement, could have remotely conceived the volume of litigation it would spawn. In practical effect it has come to mean that any proposed federal action having a conceivable effect on the environment will become the subject of a suit, whether successful or not."

In light of this history, and to paraphrase the learned judge, in practical effect S. 707 may well come to mean that any proposed federal action having a conceivable effect on the consumer will become the subject of a suit, whether successful or not.

On the question of success of suits, the second soothing argument we hear in relation to S. 707, proponents of this concept fail to recognize one central point. No matter who wins a *U.S.* v. *U.S.* suit, the Government, by definition, always loses and the courts always find these suits among the most burdensome and difficult. This is so because they have to substitute their judgment where it was never intended to be substituted, or they have to remand and, thereby, cause great delay with no guarantee that another appeal would not be taken from the subsequent agency action.

Consider the problem in relation to NEPA, as Judge Friendly makes it clear: [11]

"A court cannot decide whether an agency gave sufficient weight to environmental factors without making up its own mind what would be sufficient weight. This involves each judge's making his own value judgment, and these will differ in accordance with his particular tastes."

The respected jurist continues with an illustration:

"If, for example, Mr. Justice Douglas were sitting as a district judge, I would guess that few impact statements would survive his "limited" review, even though he was obliged to find that the attention paid by the agency to environmental factors was not simply insufficient, but "clearly" so. Almost all such cases are appealed [to a higher court]. When the reviewing court sustains the agency, years will have elapsed during which costs will have vastly increased."

There are two additional arguments made by proponents of S. 707, arguments which are spurious, but not clearly so upon first examination. The first is that Federal agencies, right now in some instances, can take a sister agency to court for a judicial review of its final decision. What these proponents always fail to point out is that (*a*) it is a rare occurrence, and (*b*) it *only* happens between agencies which have regulatory or proprietary congressional mandates which are in conflict. The CPA has no such mandates.

The courts are the proper place to resolve a conflict in duties imposed by Congress upon two different agencies. For example, the Justice Department was given authority to prevent anti-competitive mergers, and the Federal Home Loan Bank Board was given authority to approve mergers. It is one thing for the Justice Department to challenge such an FHLB-approved merger in court; it is entirely another thing for the CPA, a nonregulatory agency, to challenge such a merger where the Justice Department has failed to do so. The CPA is to be a gadfly with no substantive duties or responsibilities.

The second argument demonstrates an unfortunate insensitivity to one of the basic principles under which this country was founded. It goes like this: If businessmen, environmentalists and consumerists can sue a Federal agency in court, how can we not give the CPA such a power?

Those who make this argument are confusing private rights with public duties—a very dangerous thing to do in this day and age.

The rights of citizens representing their own special interests to challenge a Government action which adversely affects them is a right to be cherished, a measure of the liberty which has made this country great. Extending that right of challenging the Government to the Government itself, such as this bill does, is a mockery of that right which will lead to its erosion and a division of the Government.

We can guard, perfect and expedite the exercise of private rights, but we should never make the mistake of thinking that we do this by letting the Government exercise these same rights either by proxy or prediliction. The Federal Government should concentrate more on doing for citizens what they cannot do for themselves, rather than patronizingly poaching private rights, thereby depleting them.

To illustrate the point, suppose a bill were introduced to grant any Federal District Court judge the unchallengeable right to intervene in the proceedings of any other District Court for the purpose of protecting the interests of consumers. Now suppose this bill also granted these intervening judges the additional right to appeal to the Court of Appeals any decision of his brother judge, as any adversely affected party could. If Members could not support such a bill, look again at S. 707. It follows the same principle.

Before leaving this complex subject, we must point out another facet of section 8 in this bill which could easily turn danger into calamity. The CPA may appeal to the courts, not only actions arising out of proceedings and informal activities in which it has participated, but the CPA may appeal to the courts agency actions in which it has *not* participated.

Thus, we shall not know whether any "final" decision of the Government is really final until we know whether the Government, through the CPA, is going to appeal

[10] 4 Maryland Bar Journal (April 1974), at 13.

[11] Ibid., at 14.

itself or seek a further delaying rehearing prior to appealing.

As Mr. Justice Brandeis said, "Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficient * * *. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding." [12]

The power of inquisition and revelation

This is indeed a bill full of superlatives, and we shall now discuss another one: Under S. 707, the CPA would have the most far-reaching information-gathering powers of any existing Federal agency, bar none. And, when coupled with its broad powers to disseminate what it has gathered, the CPA clearly becomes a threat to privacy.

The CPA is granted authority to compel other agencies and private citizens to divulge information that no other agency would even ask for, and then to publish it.

Again, we are asked to have faith in this totally independent, unknown future Administrator of the CPA, but we are told he is needed because we cannot trust other bureaucrats. We are assured that he will not use all of the powers granted to him, but we are told that they are so necessary that they cannot be trimmed back.

Under subsection 11(a), the CPA is granted general power to gather information. This is done in very broad terms, terms which, according to the Majority Report, allow the CPA to conduct its own product testing in its own laboratories. During the early years of this bill's proposal there was general agreement that such product testing power should not be vested directly within the CPA, and should specifically be prohibited.

Subsection 11(b) of S. 707 provides the partisan CPA advocate with something no special interest advocate ever had, which no nonregulatory agency ever had, and which very few substantive agencies have—the power to require citizens to file, under oath, reports or answer to questions put to them by the CPA.

Under this provision, the CPA clearly could force businessmen to divulge trade secrets, and, indeed, a reading of section 12 of the bill confirms that such was intended. Section 12 authorizes the CPA under certain circumstances, to disclose trade secrets to the public—something no other agency may do to our knowledge.

Under this provision, the CPA might never be able to force reporters to divulge their sources. Whether or not this was intended, is not clear. However, it is significant that a lawyer from Consumers Union, which publishes the magazine *Consumer Reports*, expressed fear at one of our hearings that such could happen, and nothing was changed in this regard.

The subject matter of these information orders from the CPA is "limited" to whatever information the CPA considers is required "to protect the health or safety of consumers or to discover consumer fraud or other unconscionable conduct detrimental to an interest of consumers." In short, the scope of the orders is limited to anything the CPA Administrator wants.

If a person who is on the wrong end of one of these orders wishes to quash it in court, the Administrator is likely to prevail by merely showing that the information substantially affects health or safety of consumers or falls within the other areas of scope mentioned above, and is relevant to those purposes. Considering the fact that the CPA is the congressionally-endowed expert in this area, that is hardly a test. The only other hope of the citizen is that he can prove that answering will be unnecessarily or excessively burdensome; a slight hope.

[12] *Olmstead* v. *United States*, 227 U.S. 438.

The CPA cannot use information received under this power against the person who supplied it in a *pending* agency proceeding, but it can use the information in a *subsequent* proceeding. Thus, the non-regulatory CPA can have regulatory power by proxy—it can force information out of a businessman, present that information to a regulatory agency, demand a proceeding against the person (and appeal any decision not to hold a proceeding), enter the proceeding as a dual prosecutor, and appeal any decision made as a result of the proceeding which is not to the liking of the CPA. Thus, the CPA will have all of the rights of a regulatory agency and none of the responsibilities.

Subsection 11(c) of the bill gives the CPA virtually untrammeled access to any Federal agency file and record which the CPA Administrator, in his discretion, "deems necessary for the performance of his functions." This power is subject to seven extremely narrow exceptions, most of which evaporate right out of sight when you read their intent in the Majority Report.

One of these exceptions is worth noting, however, because it will result in making the jobs of existing Federal agencies far more difficult. The exception is found in paragraph (7)(B) of subsection 11(c). This exception allows a Federal agency to deny to the CPA trade secrets and other confidential business information which it has received subsequent to the enactment of this bill, *but* the Federal agency may deny the CPA access to these secrets *only* under the following conditions:

(*a*) The original agency must have gotten the secrets pursuant to a written agreement not to divulge them; *and*

(*b*) The information must not have been obtainable without such an agreement (that is, the original agency had no subpena or other mandatory power to obtain it); *and*

(*c*) The failure to obtain the secret information would have seriously impaired the original agency in carrying out its program, *and*

(*d*) Access to the information is likely to cause substantial competitive injury to the person who supplied the secrets.

This is not only an extremely narrow exception, but also it will clearly result in businessmen failing to voluntarily surrender confidential inforamtion to assist the Government in its programs.

It may seriously be doubted whether a businessman who does not want his trade secrets shown to the CPA would volunteer such information to an agency which could procure it by subpena or other means—the CPA could have access to the secrets just for the asking, because the information could have been obtained by the original agency without an agreement to keep it confidential.

Perhaps those who advocate this idea do not realize how extensive a practice it is for businessmen to save a Federal agency the trouble of a suit by volunteering confidential information under a protective agreement. If this provision remains such a practice would probably no longer be extensive, and it is likely that all Federal agencies will have to go into court to get the information they need.

We should note that this provision would allow the owner of a trade secret to seek a court injunction against granting the CPA access to it. But the bill is silent with respects to any grounds upon which the injunction could lie, thus forcing him to plead the conditions listed above—an obviously hopeless task.

As to disclosure of information obtained by the CPA, subsection 12(a) grants to the Administrator the right "to discuss to the public or any member thereof so much of the information subject to his control as he determines appropriate to carry out the purposes of this Act." The subsection makes it clear that the only limitations to be placed upon such CPA disclosure are those listed in this section 12. No other existing legal limitations on Federal agency disclosures would apply.

Needless to say, after such a broad delegation of power to disclose information, one might expect numerous and tightly drawn exceptions to such an unbridled right to disclose the vast amount of information which the CPA will gather. Unfortunately, this section follows the pattern of its predecessors—narrow, contorted, and ill-fitting limitations upon an overwhelming grant of power.

Subsection 12(b) applies to information which the CPA has gotten through its access to the files and the records of other agencies. More specifically, it applies to information exempted from mandatory public disclosure by these agencies under the Freedom of Information Act or any other applicable statute. Even more specifically, this subsection applies only to such information where the original source agency has specified in writing to the CPA that information is exempted from public disclosure by statute, and that the CPA should not disclose it. In such a case, the CPA may not disclose that particular information. Or if the original, source agency has specified a particular form or manner for the disclosure of such information, the CPA must comply with that specification. Otherwise, the CPA has a full disclosure right, subject to some minor inconveniences, but not prohibitions, in later subsections which will be dealt with below.

Subsection 12(c) creates a broad loophole in existing trade secret law (18 USC 1905) which now prohibits all Federal agencies and their employees from using to their own advantage and disclosing trade secrets and other confidential business information. S. 707 would allow the CPA to publicly disclose such trade secrets and confidential information if the CPA in its discretion decided that such disclosure was necessary to protect health and safety generally (no relation to a consumer transaction or interest is necessary).

This regulatory function for the nonregulatory CPA applies to information received from private citizens who either volunteered it or were forced to surrender it under the CPA's information order power which would allow discovery of trade secrets. It also probably applies to information volunteered by a Federal agency, so long as the CPA did not exercise its authority under subsection 11(c) to force the agency to surrender the trade secrets. But the disclosure function does not apply to information which the CPA has forced a Federal agency to divulge under subsection 11(c).

The CPA is also allowed to disclose any such trade secrets or confidential information to congressional committees, courts and Federal agencies when the CPA is representing an interest of consumers, but it must do so in a manner designed to preserve the information's confidentiality. In addition, the CPA is allowed to generally divulge such confidential information to other Federal officials concerned with its subject matter in the same manner.

In all other cases, the CPA would be bound by the same law as other Federal officials, and would not be allowed to disclose such secrets or confidential information. But the loophole which this subsection creates is big enough to frighten anyone who has millions of dollars invested in a secret formula or process.

Subsection 12(d) of S. 707 makes it clear that the nonregulatory CPA's regulatory function is complete with respect to protecting the public. Where, in the sole opinion of the CPA, "immediate release is necessary to protect the health or safety of the public," the CPA is authorized to disclose immediately such trade secret information or any other disclosable information in its possession.

In other cases, where release of informa-

tion might cause substantial injury to reputation or good will, the CPA will allow the affected person or company time to comment or seek injunctive relief. Again, we wonder about what grounds such a person or company would plead in court in light of the clear statutory right of the CPA to divulge the information.

Subsection 12(e) originally began as a provision designed to guard against the CPA telling consumers what to buy, eat and do. It applies to CPA-released information which names products and services. Now, together with its intent as laid out in the Majority Report, this subsection achieves the opposite result.

This subsection 12(e) provides, in pertinent part, that the CPA shall "not indicate *expressly* that one product is a better buy than any other product." The Majority Report in its explanation of the subsection fleshes this out as follows:

"This provision should not be read as prohibiting the [CPA] Administrator from making any statement comparing the relative characteristics of any product or service. He may make objective comparisons of performance or of service. Frank, factual and meaningful discussion of various products and services by the Administrator are not precluded by this subsection."

That is, the CPA can determine what characteristics of competing products it should test, and publish the results in order of performance of the characteristics chosen by the CPA as most important. It will be a message to consumers as to what the CPA recommends should be purchased, but it will not be labeled as such.

The one happy note in this subsection is that, for the first time, the bill recognizes that consumers are not complicated idiots—they will be able to recognize a good-better-best rating when they see one, even if it is not labeled as such.

III. S. 707 WILL RESULT IN THE SUBVERSION OF THE PUBLIC INTEREST TO THE OFTEN CONFLICTING SPECIAL INTERESTS ARE DEFINED BY A CORPS OF BUREAUCRATS

CPA-like Federal advocacy units were tried during the New Deal, and they failed so miserably that President Franklin D. Roosevelt let them lapse and would not heed the arguments of consumer activists that they should be made permanent.[13] They failed because the interests of consumers are all-too-often diffused and conflicting so as to make it impossible in many cases to single out a consumer interest which is truly representative and which may be advocated strongly without equivocation. As one New Deal official described the unsuccessful Federal consumer advocacy unit experiment of that day, it was a "spearhead without a shaft."[14]

What is the consumer interest in an automobile? Cost, safety, availability, power, appearance, fuel consumption, speed, impact on the environment, size, comfort? In point of fact, it is all of these, and which of them should be considered primary should be left up to the consumer who is the only one who can properly weigh these characteristics in light of his own situation. To advocate *for* safety (for example, mandatory seat belts) can mean to advocate *against* cost and convenience, two other valid consumer interests.

The interests of consumers are not only self-contradictory when segregated for advocacy purposes, but also often conflict with other established interests. The interest of consumers of fuel oil versus the interests of environmentalists in clean air and conservation may prove to be a classic confrontation if coal use continues to increase and the CPA is created. What about the interests of consumers in foreign lower-priced goods versus the interests of a working man who needs protection from foreign imports which may cause him to lose a job?

For those who still have difficulty appreciating the fact that one cannot divide every American's interests into neat litle boxes that all fit within the public interest on a scale of rigid priorities, perhaps one might be willing to accept on faith the word of one of the acknowledged experts in consumer affairs. In testifying on a predecessor to this bill in the House of Representatives, this expert said that "It is quite clear, as many people have said, that you can't separate substantively the consumer interests from other interests."[15] That expert was Ralph Nader.

The point is, the presentation of differing viewpoints, before a substantive agency which has the duty to balance these views and make a decision in the public interest, can be a very delicately balanced process. Allowing a CPA to intrude into such a process, with no responsibility except to itself, and with power far in excess of the need of any other participant (and, in some respects, in excess of that of the forum agency) is likely to subvert the public interest to the special interest of consumers, as that special interest is defined by the CPA.

IV. S. 707 IS, ITSELF, A FRAUD UPON CONSUMERS WHO HAVE BEEN LED TO BELIEVE THAT IT IS THE ANSWER TO THEIR DAY-TO-DAY PROBLEMS AND FRUSTRATIONS

Some of the opponents of this bill are like Job; they multiply words without knowledge. This section of our views will highlight some of the misstatements made about this bill which have led many to misconceive it.

The "fly-by-night" fly-by-night theory

If we have heard it once, we have heard it hundreds of times: This bill is a blessing to legitimate businesses, it will only affect those shady fly-by-night outfits such as those who sell consumers defective aluminum siding; or it will finally get that auto repair man who pads his bill and does a poor job repairing your car. This is, out and out, pure nonsense.

If it were not for the scandalous and unfounded charges that have been levied or implied, we would list here for you the business firms that have been mentioned by some of the leading witnesses who favor and helped draft an overly-strong agency such as the one proposed in S. 707. These businesses are not your local aluminum siding man, they are well respected, blue chip companies found in all of our States.

In point of fact, with the elimination of the State grant program from this bill and the new prohibition on the CPA's taking action at the State and local levels, the CPA will have no immediate impact on the day-to-day problems that consumers have been led to believe will be solved by the new Agency.

Rather, the history and provisions of this bill show that the CPA will be involved in very complex and lengthy Federal administrative proceedings and court appeals, involving such things as antitrust cases, rate settings, agricultural marketing orders, trade negotiations and a multitude of other matters which may take months and even years to resolve.

One of the most fascinating misconceptions relating to this bill was in a recent edition of *Business Week* magazine which endorsed the CPA concept because it would create an "ombudsman" for consumers which would assist businessmen in defining consumer interests. It appears that the editorial writer had never even read one of the leading CPA bills. The last time an attempt was made to make the CPA more nearly like an ombudsman was on the floor of the Senate in 1972, when the so-called "amicus amendment" was offered to allow the CPA to assist other agencies and to prohibit it from attacking them.

That amendment failed, and that failure resulted in a desire by many Senators to consider and evaluate the predatory powers of that bill at length. The current bill is just as bad, if not worse.

Why was big labor exempted?

One of the things consumers are definitely upset about is the price of goods and services in this country. If there is any better example of a special interest which has "captured" its regulatory agencies or whose actions directly and measurably increase consumer prices—if there is any better example than organized labor, it has not been shown in the hearings on this bill.

Does anyone remember the effects of dock strikes and truck strikes on the cost and availability of goods and services? Does anyone have any idea how much money the Occupational Safety and Health Administration is costing businesses who pass it along to consumers?

A very unique provision is found in paragraph (11) of subsection 6(a) of this bill. This is not, nominally, an exemption provision where one would normally look to see who was exempted; it is a mere listing of the generalized functions of the CPA, a provision most people would hardly give a second glance to. Yet, hidden in this function provision is a prohibition, namely:

"The [CPA] Administrator shall not intervene or participate in any agency or judicial proceeding or activity directly concerning a labor dispute involving wages or working conditions affecting health and safety."

We do not blame organized labor for being afraid of this bill, but we find it difficult to rationalize the letters we received from labor unions in support of this bill, letters sent after Federal arbitration and mediation activities, many NLRB proceedings and the like were exempted. Perhaps labor agrees with us that the CPA could bring any management to its knees.

The Majority Report states that these areas were exempted "because their effect on a transaction of interest to the consumer is too remote to justify involvement of the CPA." Delay in settlement of a dock strike will have an *immediate* effect upon consumer prices and the availability of goods, both specifically mentioned as interests of consumers in the definition of that term in the bill. Anyone who cannot see that has not read the Committee Report in the 92d Congress on this bill, wherein Senator Allen pointed out that the AFL–CIO had submitted for a prior CPA bill hearing record a legal opinion which concluded that NLRB proceedings might result in a substantial impact upon consumer prices.

Failure to see such an elemental fact tends to substantiate the theory that consumer interests are in the subjective eye of the beholder, and will vary considerably from person to person and from situation to situation; such failure to see the impact of labor dispute proceedings upon consumers also may indicate a bias against the business community, a bias that is reflected in this entire bill.

Failure to see such an elemental fact also tends to confirm that this bill, indeed, is not a consumer protection bill, but one which fits better into the description by

[13] For a detailed history of these CPA-like units, see Leighton, *Consumer Protection Agency Proposals: The Origin of the Species*, 25 Ad. Law Rev. 269 (American Bar Ass'n., 1973).

[14] Ibid., at 277.

[15] Hearings on H.R. 6037 and Related Bills, before a Subcommittee of the Committee on Government Operations, 91st Congress, 1st Session, at 175.

Ralph Nader who, when he originally proposed the idea in House hearings, said: [16]

"I think what we should try to do is reform the entire governmental apparatus through this kind of office of consumer advocacy, with strong powers, with strong skills, with strong zeal, strong consumer testing and disclosure functions. * * * I think that the kind of office of consumer advocacy, with investigation powers, and research and testing powers, and complaint handling powers, and just simply representation before these agencies, would revolutionize this Government."

V. S. 707, IF ENACTED, WILL LEAD INEXORABLY TO THE CREATION OF OTHER SPECIAL ADVOCACY AGENCIES REPRESENTING INTERESTS JUST AS IMPORTANT AS THOSE OF THE CONSUMER WHICH ARE THREATENED BY THE EXISTENCE OF A POWERFUL CPA

If we were to enact this bill to give super rights to the special interests of consumers, how could we logically say no to a similar request for an Environmental Advocacy Agency, or a Labor Protection Agency, or a Small Business Protection Agency, or a Taxpayer Protection Agency, or a host of other agencies to represent special interests that are at least equal to those of the consumer?

Scenting possible enactment of this legislation, at least one consumer group is already laying plans for the next advocacy agency. The May issue of *Nutrition Action*, a publication of the Center for Science in the Public Interest, urged in an editorial that a Nutrition Advocacy Agency be created to take informal and legal action to encourage Federal agencies to shape policies with up-to-date concepts in preventive medicine.

Where will it stop, logically? Perhaps only when the entire Government is reformed, as urged; but if we are going to reform the Government, let us at least admit that this is our intent, and let us take the proper steps to do it openly, not by guerrilla warfare.

SHORT SUMMARY AND CONCLUSION

This bill is being promoted in the good name of the consumer, yet its provisions belie its promotion. When the guillotine was about to behead a famous French lady during that country's revolution, she cried out, "O liberty, how many crimes are committed in thy name." After a thorough reading of S. 707, it leads us to conclude, "O Consumers what crimes we are asked to commit in thy name."

This bill will promote disruption and delay in the Federal Government. It is ill-conceived and over-powered. It will grant some unknown political appointee appalling powers to coerce other agencies to do his bidding, to pry into the private affairs of the public and to publish information which could ruin legitimate businessmen. It will subvert the public interest to a lesser included special interest.

We again urge that this bill be rejected for the reasons stated in these views, or at least, that the bill be thoroughly rewritten after thoughtful consideration.

SAM J. ERVIN, Jr.
JAMES B. ALLEN,
BILL BROCK,
SAM NUNN.

[16] Ibid., at 175 and 176.

THE 34TH ANNUAL BALTIC STATES FREEDOM COMMEMORATION

Mr. ROTH. Mr. President, June 15 is the 34th annual Baltic States Freedom Commemoration. This commemoration marks the loss of independence for Latvia, Estonia, and Lithuania and the subsequent deportation of many of their citizens at the beginning of the Second World War.

Between the two world wars, the three Baltic States enjoyed two decades of national independence and self-government. In the early years of independence all three rapidly recovered from the effects of the First World War largely as the result of hard work, thriftiness, and determination, and virtually without loans or foreign aid. Education, literature, and the arts and sciences flourished in a cultural renaissance.

After Hitler invaded Poland on September 1, 1939, the Soviet Union also invaded from the east. Following this, the foreign ministers of Estonia, Latvia, and Lithuania were invited to Moscow and then forced to sign mutual-assistance pacts. Although the mutual-assistance pacts guaranteed there would be no interference in their internal affairs, it was not long before the Soviet Union had complete control of the Baltic countries.

Under Soviet domination, thousands of Estonians, Latvians, and Lithuanians were deported to Siberia and other parts of the Soviet Union during the 1940's. Others fled to Germany and were forced to live in displaced-persons camps. These moves were part of a deliberate policy to destroy the cultures of the three Baltic States.

I might add that today these people still have to struggle to maintain their identity in their own lands. In Vilnis, the capital of Lithuania, native Lithuanians have become a minority. Latvians may become a minority in their own country by 1975 as may Estonians in their country by 1985.

Some may say that we can on longer fail to recognize the annexation of the Baltic States by the Soviet Union. I believe that even while we seek to put our relationship with the Soviet Union on a sound basis, we cannot condone nor excuse actions we find morally repugnant. For this reason I have cosponsored Senate Concurrent Resolution 80 urging the U.S. delegation to the European Security Conference not to recognize the annexation of these nations by the Soviet Union.

On the 34th anniversary of Baltic States Freedom Day, it is particularly fitting that we remember the courageous Latvians, Estonians, and Lithuanians and reaffirm to all nations our belief in the fundamental rights and inherent dignity of all mankind.

ANNIVERSARY OF THE SOVIET ANNEXATION OF LITHUANIA

Mr. WILLIAMS. Mr. President, Saturday marks a sad aniversary which reminds us that all nations do not share our blessings of liberty. On June 15, 1940, the democratic republic of Lithuania was occupied by the Red Army and forcibly annexed by the Soviet Union. Today, 34 years later, that nation remains under the yoke of Communist rule.

The trials of the Lithuanian people have been long and hard. Since 1795, this small nation has struggled under the burden of foreign domination. This tragic history of oppression was broken by only two decades of independence. But during its 20 years as a free country, few nations have demonstrated their capacity and ability for self-government as well as well as Lithuania. Its civic leaders brought about long-needed land reform, created and expanded industry, established an adequate transportation system, and enacted social legislation and an educational policy which could well be copied by other nations throughout the world.

Tragically, this breath of freedom was short lived. On June 15, 1940, the Soviets demanded immediate formation of a "friendly" government and occupied the country. That day, 5,000 political prisoners were executed; 30,000 members of the Lithuanian intelligentsia had been deported to Siberia the day before.

Despite devastating blows like these, the people of Lithuania the world over have never abandoned their noble struggle for freedom and self-determination. Today, these courageous people still cling to the hope of independence, despite Soviet attempts to demoralize the people, and russify their culture and institutions.

Mr. President, let me cite a single example of the courage and lust for freedom which characterizes Lithuanians today. On May 14, 1972, 20-year-old Roma Kalanta set himself afire in a park in Kaunas, the second largest city in Lithuania. Inspired by his ultimate sacrifice, several thousand youths took to the street for 2 days shouting, "Freedom for Lithuania!" In the following 2 weeks, two other Lithuanians immolated themselves in the cause of freedom. Exemplary of acts throughout the last several years, this is but one instance of the continuing, active determination of this oppressed people.

Appropriately, we of the free world who enjoy the blessings of liberty have not forgotten those who still languish in the dismal shadow of tyranny and oppression. We have never recognized the incorporation of Lithuania into the Soviet Union, and continue to maintain diplomatic relations with the representatives of the former independent government. I believe we must continue this policy of support for freedom-loving Lithuanians everywhere.

Mr. President, today over 3 million people in Lithuania suffer continual religious and political persecution. In spite of this persecution, these courageous people, including the more than 22,000 Lithuanian-Americans in my own State of New Jersey, cling to the ideals of freedom and independence. Therefore, as we commemorate this day, I am hopeful that my colleagues in Congress and all my fellow Americans, will join in feeding the flame of hope which burns within each brave Lithuanian.

H.R. 8193 WOULD MEAN INCREASES IN COSTS OF IMPORTED OIL

Mr. CURTIS. Mr. President, I am opposed to legislation introduced in the other body which would require that 30 percent of all U.S. waterborne petroleum imports be transported in U.S.-flag tankers.

This measure, H.R. 8193, represents an insidous threat to the orderly expansion of American argiculture. It would impose added costs of at least 50 cents a barrel of petroleum imported, because the importation of oil using U.S.-flag vessels

is simply more costly at this time than using foreign flag vessels.

Moreover, as the cost of imported oil increases, the price of domestic oil will naturally follow proportionately. Farmers, already caught in the cruel vise grip of inflation, would be hardest hit of all. The agricultural industry uses more petroleum products than any other industry. I am told that H.R. 8193 could cost U.S. farmers an additional $100 million or more a year. Not only would this be an unwarranted and unconscionable financial burden on farmers, but eventually these higher costs would have to be passed along to consumers. The resulting increased food and fiber costs at grocery and clothing stores would be outrageously inflationary.

Not only would consumers be faced with higher food costs, but enactment of this legislation could mean complete disaster for thousands of farmers, and utterly wreck the economy of cities and towns serving rural America.

This proposed legislation would undoubtedly lead to increased pressures on the Congress to have similar mandatory requirements placed on commercial exports—particularly products such as corn, wheat, rice, and other agricultural commodities. In fact, labor interests have openly stated in congressional testimony that the enactment of flag quota legislation for oil imports would be just the first step.

Agriculture's growth record is tied to growing export demand and new export opportunities. The domestic market for agricultural commodities simply will not absorb the farm goods which U.S. farmers produce efficiently.

Farm income depends on the 20 to 25 percent of U.S. agricultural commodities which are sold annually to customers overseas. In 1973, exports gained $5 billion. They are headed for another gain of about $7 million this year.

In fiscal year 1973 the average of all the differential paid under title I of Public Law 480 was about $25 a ton. In many cases the difference amounted to more than half of the entire rate.

Unilateral action by the United States to impose flag quota requirements would inevitably result in retaliation by other nations. And neither the farmers of this Nation, nor the taxpayers, are prepared, in my judgment, to absorb an additional $25 a ton in shipping rates.

Enactment of this legislation would seriously hamper the trading flexibility of the United States, and deprive this country of the vital capability of shifting transportation resources in accord with the best interests of national security.

Consumers on the eastern seaboard would be hit quickly and directly. In New England, for example, nearly all the residual oil used for generating electricity and other heavy industrial uses is imported. This legislation would mean an additional immediate cost of 4 cents a barrel to the final user, and a projected increase of 15 cents a barrel by 1985. This would mean higher electric utility bills and higher heating costs for large buildings, with the cost increases quickly spreading to other petroleum users.

Many oil producing countries are interested in their own long-range plans to develop major tanker fleets. Enactment of cargo preference legislation by the United States would encourage Arab and other oil producing nations to require a percentage of their oil exports to move in national flag vessels.

This proposed legislation would apply cargo preference to commercial cargoes for the first time, although it is true that some degree of cargo preference is in use by other nations. However, if we should enact this bill we would by our very action invite—or at least provide the excuse for—foreign countries to take additional discriminatory measures. Such action by our trading partners could very easily apply cargo preferences to all types of cargo and thereby jeopardize or inhibit the profitable employment of the U.S.-flag merchant fleet in our normal trade relations. Such legislation would do enormous damage to U.S. relations with other maritime nations including Japan, the Scandinavian and Western European nations. It would violate treaties of "friendship, commerce, and navigation" with at least 20 countries.

Mr. President, this is a period of dynamic change in world trade. Our nation is now aware of the dangers inherent in relying heavily on overseas energy sources. Our concern generates not so much from the flag of the tanker, but rather from the available source of petroleum and other energy resources. Out of this consideration has come the top priority national effort to increase our domestic energy supplies. At the same time, Congress has taken the initiative through the Merchant Marine Act of 1970 to revitalize the U.S. maritime industry.

The act of 1970 has created the greatest peacetime shipbuilding boom in U.S. history. A majority of the ships contracted are tankers. The use of direct subsidies to expand the U.S.-flag tanker fleet is providing the following benefits for all U.S. citizens and taxpayers.

Thirty tankers have been ordered, including nine very large crude carriers.

Tankers, including unsubsidized ships, valued at $1.7 billion and totaling 5 million deadweight tons, are under construction or on order at U.S. shipyards.

One hundred four subsidy applications are pending for additional tanker contracts.

If we continue the existing program at current funding levels, the existing program will provide the U.S.-flag tanker capacity for a 20-percent penetration into the oil import trade by the early 1980's.

$150 million has already been invested in new shipyard facilities. Another $350 million investment is planned.

Federal subsidies have been reduced from 55 percent in 1969 to 33.4 percent in 1973.

Other Government programs also help stimulate development of the U.S.-flag tanker fleet. Such programs include the oil import license fee remissions for imports from U.S. territories, Federal Mortgage Insurance for tankers constructed for the Alaska pipeline, the U.S.-flag Soviet maritime agreement, and U.S. Navy programs to use commercial tankers where feasible.

Mr. President, I strongly favor the goal of expanding the U.S.-flag tanker fleet, and the foregoing shows that a majority of my colleagues in the U.S. Congress agree with me.

However, this is not the time to divert national resources into a cargo preference program, which would prove both costly and counterproductive in terms of national objectives.

THE U.S. POSTAL SERVICE'S ADVERTISING CAMPAIGN

Mr. EAGLETON. Mr. President, a copyrighted article written by Mr. Ronald Kessler, appearing in the Washington Post, revealed that the people of St. Louis, Mo., were the subjects of an intensive advertising campaign by the U.S. Postal Service. St. Louis received worse mail service than the rest of the country, but opinions of the postal service were higher in St. Louis than in cities with better service that had not been exposed to the advertising.

Because of the public relations benefits of the ads, Mr. James L. Schorr, Director of Advertising for the Postal Service, argued in a memo that advertising being tested in St. Louis should be extended nationwide.

Mr. President, as a Senator from Missouri and a member of the Senate Postal Appropriations Subcommittee, I find an advertising campaign to improve the image of the Postal Service an inappropriate expenditure of Federal funds.

I have received many letters complaining about poor postal service in Missouri. In May of this year I conducted a study of Missouri mails and found many areas of deficiency. On May 23 I presented my findings to Postmaster General Klassen in the hope that the U.S. Postal Service would take corrective action.

My study found that airmail and first-class mail posted in Washington, D.C. and received in Missouri take exactly the same transit time. Making the public aware of what they are getting for their airmail money would be an appropriate advertising expense of the Postal Service.

The U.S. Postal Service says that 95 percent of the mails are delivered within the time allowed by the "Postal Service Standards." As Mr. Kessler's article points out, the Postal Service times delivery between the post office postmarking the letter and the post office receiving the letter. When timing from mailbox to front door, as I recently did in my own study in Missouri, service standards were met only 85 percent of the time. According to my calculations, over 700,000 letters are delivered late in Missouri every day. Even when taking into consideration the great volumes of mail handled daily by the Postal Service, over a half million late letters a day is too much.

Mr. Kessler's article reveals a number of other disturbing developments regarding the delivery of the mail. I think it is advisable for all my colleagues to read the first article of Mr. Kessler's series.

Mr. President, I ask unanimous consent that Mr. Ronald Kessler's article regarding the U.S. Postal Service be printed in the RECORD.

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

[From the Washington Post, June 9, 1974]

U.S. POSTAL SERVICE

(By Ronald Kessler)

The new U.S. Postal Service has deliberately slowed delivery of first class mail and has overcharged first class mail users by an apparent $1 billion a year while undercharging commercial mail users, a Washington Post investigation has found.

Delivery of first class mail—the class used most Americans for letters—has been slowed by a Postal Service policy of putting aside mail arriving from out of town during the night for sorting during the day.

The policy, which delays mail by a full day, was put into effect largely to avoid paying extra salary for night work. But the total cost of extra night salary is about 1 per cent of the postal budget, and the new policy has saved only a fraction of this cost.

While the Postal Service saves night salary by allowing sacks of first class mail to pile up in post offices throughout the country, it continues to pay the extra salary for sorting non-priority mail carrying less postage than first class letters. This includes slow-moving fourth class parcel post and commercially oriented, junk mail and second class newspapers and magazines.

A transcript of a high-level meeting of postal officials in 1969, when the new policy for first class mail was begun, shows a decision was made to no longer strive for overnight mail delivery and to keep this a secret from Congress and the public.

The transcript shows that Frank J. Nunlist, then an assistant postmaster general, told regional postal officials:

"Now if we announce that we are going to do this (lower overnight standards) there are 700,000 guys (postal workers) that are going to run to their congressmen and say, 'You can't have a postal corporation; these guys are not going to serve the American people.'

"So," Nunlist continued, "we have got to be a little tight about this, and you can't even say to your employees in the post office, 'Don't promise prompt service.' We have got to play this game pretty carefully."

While the Postal Service has slowed first class delivery, the agency also has overcharged this class of mail and undercharged those classes generally used by special commercial interests, six postal cost studies, including two by the Postal Service, show.

One study, by the U.S. Postal Rate Commission staff that represents the public, shows an over-charge to first class mail users in fiscal 1972 of about $1 billion, or 2 cents per letter. (The figure does not include the overall postal deficit for which no particular class of mail pays).

The study shows undercharges to third class, so-called junk mail, second class newspapers and magazines, and fourth class parcel post.

The Postal Service is required by law to avoid favoring or discriminating against any mail user and to charge rates that cover all costs reasonably assigned to each class of mail.

The Postal Service denies it overcharges, and it cites as evidence a seventh study it has performed, which shows that third class junk mail pays for itself. This study has been rejected by failing to show true postal costs by both the chief administrative law judge of the separate U.S. Postal Rate Commission, which helps sets postal rates and by the General Accounting Office, the audit arm of Congress.

Some postal officials have publicly defended the official Postal Service cost study say privately it was designed to cover-up losses run up by cheaper classes of mail generally used by commercial interests. The reason, they say is that users of more expensive first class mail, who include both individuals and businesses, do not have the political clout of the special interests.

The Washington Post investigation has also found that:

Since the new policies of the Postal Service were established in 1969, first class mail has been slowed 14 per cent to 23 per cent, according to the agency's own mail sampling system. During about the same time, the price for first class service has risen 66 per cent, or about double the rate of inflation.

A $1 billion parcel sorting network being built by the Postal Service to try to stop loss of business to its private industry competitor, United Parcel Service (UPS), promises to offer slower service than UPS. The Postal Service has acknowledged internally that a chief reason for the success of UPS is a package damage rate a fifth that of the Postal Service. But sorting equipment in the new parcel network will, in the course of processing parcels, drop them a foot, compared with what UPS says is no drop during its processing.

A mechanized letter sorting system said by the Postal Service to produce savings of billions of dollars has been found by the GAO to be more costly than the existing, old-fashioned system. The Postal Service's internal auditors have reported confidentially that the new system sorts letters at a rate slower than the system used by Benjamin Franklin, the first postmaster general, who placed letters, one by one, in pigeon holes.

The Postal Service has spent more than $140 million on contract cost overruns since the assertedly cost conscious policies of the new agency were established in 1969. About half the contracts for $5,000 or more awarded by the Postal Service in 1973 were let without competitive bidding involving formal advertising. Although competitive bidding is not required by law, it is the method considered cheapest and fairest by the GAO and the Postal Service itself.

These and other findings resulted from a four-month Washington Post investigation of the Postal Service. The investigation included visits to five of the six largest post offices in the country; interviews with hundreds of present and former postal officials, technical experts, mail users, and postal oversight officials; and examination of hundreds of internal Postal Service memos, reports, studies, and letters, as well as congressional and rate hearings, government audit reports, and private consultants' reports.

What emerges is a portrait of how one of the largest government agencies works—or doesn't work—for the tax and postage-paying citizens it is supposed to serve.

Asked for a comment on The Post's findings, Postmaster General Elmer T. Klassen said he would defer to comments made by his deputies on specific matters because he is not familiar with all the details of postal operations.

E. V. Dorsey, senior assistant postmaster general for operations, acknowledged that first class mail arriving from distant points at night is not sorted until daytime. He disputed, however, that this delayed mail.

"We have priorities," he said. "We have other things to do." He said the policy saves the 10 per cent extra night pay and some equipment costs.

Arthur Eden, director of rates and classification, denied first class mail users are overcharged. He said rates are set in accordance with law, and cited a Columbia University professor who agrees with the agency's method of determining costs of various classes of mail.

Asked to cite improvements since the Postal Service was created, Klassen said in a letter it has "improved the speed and reliability of service." He said productivity has increased, field managers have been made accountable for service and costs, and postmasters are no longer selected because of their political connections.

"In short," Klassen said in the letter, 'we've come a long way. We have made some mistakes, but they are far outnumbered by the things we have done right. Through the diligence of a great number of dedicated men and women, we are well on the road to making the Postal Service an organization of which every American can be proud."

To most Americans, the Postal Service is the only branch of federal government that touches them directly each day. The mailman walking his route on a tree-lined residential street, as depicted by Norman Rockwell on covers of the old Saturday Evening Post, has become a symbol of America.

To the nation's businesses, the Postal Service is essential. Without it, the economy would quickly become paralyzed. Recognizing this, the Founding Fathers specifically provided in the Constitution for operation of a national postal service.

The present Postal Service is a big business. Its $9.8 billion budget would rank it among the nation's 10 largest industrial firms. Its 700,000 employees make it second only to the Defense Department as the federal government's largest employer.

Although the Postal Service is a big business, it has never had the same incentives to achieve efficiency that a business has. If its service was slow and customers complained, there was no reason to think they would turn to a competitor. Congress historically had prohibited private companies from competing with the Postal Service for first class mail delivery.

If the postal agency wasted money, its employees did not fear losing their jobs in a bankruptcy proceeding. Congress would always bail the agency out with more subsidies.

Public dissatisfaction with this method of doing business reached a head in 1966, when the Chicago post office became so glutted with mail that it closed down.

Lawrence F. O'Brien, then postmaster general, proposed that a presidential commission study reform of the old Post Office Department. In 1968, the panel, headed by former American Telephone & Telegraph Co. chairman Frederick R. Kappel, recommended reorganization of the department as an independent branch of government.

The idea, the commission's report said, was that the agency could use modern business methods to move the mail if it were insulated from politics and given independent control over its funds. Such methods would save at least 20 per cent of the agency's costs, the commission estimated.

The agency that evolved from this recommendation is a branch of government with certain special privileges. Unlike other government departments, it does have control of its own funds and may raise additional money by selling bonds to the public. It is prohibited from making appointments based on political considerations.

Finally, it is required to become financially self-sufficient—free of subsidy from Congress—in 1984.

The agency does not report to the President. Instead, it is run by a board of governors whose members are appointed by the President with the consent of the Senate, much as the Federal Trade Commission is run.

Although Congress enacted the Kappel Commission proposals into law in 1970, and the new agency chose to change its name in 1971, most of the new policies followed today by the Postal Service did not require legislation and were implemented in 1969 by Winston M. Blount, President Nixon's appointee as postmaster general.

But five years later, a key finding of the Kappel Commision remains true:

"The commision has found a pattern of public concern over the quality of mail service. Delayed letters, erroneous deliveries, damaged parcels, and lost magazines and newspapers are everyday experiences."

Rep. Thaddeus J. Dulski, chairman of the House Post Office Committee, wrote to Post-

master General Klassen last December, "No one expected the transition from the Post Office Department to the U.S. Postal Service to be easy, but on the other hand, neither did anyone expect it to be catastrophic."

Dulski and others have charged that rather than improving mail service, the new agency has spent millions of dollars on advertising the public relations efforts to make the public think it is getting better service.

This approach was illustrated by an internal Postal Service memorandum written last year by James L. Schorr, director of advertising.

Schorr, whose department spent $2.5 million on advertising last year, argued in the memo that advertising being tested in St. Louis should be extended nationally.

The reason, Schorr wrote, was that although the advertising promoted such special postal products as money orders and stamp collecting supplies, it had the effect in St. Louis of improving the public's overall view of the Postal Service.

"This is particularly significant," he wrote, "in that the actual level of (mail) service in St. Louis fell off worse during Christmastime than in the rest of the country . . ."

Indeed, Schorr wrote, favorable opinions of the Postal Service were found to be higher in St. Louis than in cities with better service that had been exposed to the advertising.

Like a number of other postal officials, Schorr declined to be interviewed by this reporter.

Instead, Schorr said questions would be answered by the agency's public relations department. But one can learn little about the Postal Service and why the mail is so slow by going through official channels.

Klassen, in testimony before the Senate postal committee last year, said service was actually "somewhat better than on July 1, 1971, when the Postal Service came into being."

What Klassen did not tell the committee was that nearly all the mail processing policies followed by the new agency were started in 1969, and the 1971 date he used for comparison represented little more than a change in the name of the department.

He did not say that when compared with the last year of the old Post Office policies, service had deteriorated.

"The method of presenting statistics is highly selective," said a former postal official who helped write some of Klassen's speeches and congressional testimony.

"We're always desperate to find something good to say about service," said a current postal official who has gathered information for Klassen's statements in agency annual reports.

The difficulty is not surprising. The agency's internal mail sampling system confirms what thousands of complaints to the agency and Congress have charged; that rather than improving service, the new Postal Service has made it worse.

Nor does the sampling system, known as Origin-Destination Information System (ODIS), necessarily portray the full extent of the deterioration.

The system records postmarks before letters are given to carriers for delivery to homes and businesses.

This means it does not measure delays that occur before letters are postmarked—when they are picked up from collection boxes, trucked to post offices, and initially sorted. It also means the system does not measure delays after letters are received by letter carriers.

In one test, the GAO found the ODIS figures would show a 10 per cent longer delivery span if it measured time from deposit of letters to delivery.

The postmarks used in the ODIS system are recorded by clerks who work for local postmasters. Since the postmasters' performance is being measured by the system, this arrangement does not necessarily provide incentives for doing an accurate job.

"The standard procedure is to disregard late mail," says Melvin Wilson, a Los Angeles postal clerk who recorded ODIS mail until 1970.

If late mail were included in daily reports, Wilson said, "They'd call you down and say, 'Do they (the figures) look right to you?' That means change it."

Carolynne M. Seeman, the statistician in charge of ODIS, acknowledged that cheating occurred. "We've seen information erased (from reports) to make the service look better," she said.

She said she does not have the staff to question the accuracy of the reports, and she said she does not believe, cheating is a "major problem."

Despite the opportunities for cheating, the ODIS figures show a 23 per cent increase in average first class mail delivery time from the last three quarters of fiscal 1969—the last year of the old Post Office—to the same quarters in fiscal 1973. (The first quarter was not tabulated.)

The figures show service improved slightly in fiscal 1974 but remained 14 per cent slower than under the old Post Office.

The agency handled 89.7 billion pieces of mail in fiscal 1973, compared with 82 billion pieces in fiscal 1969.

What the figures mean to the average user of the mails is that there is no assurance that a letter will be delivered overnight anywhere in the country.

The chances of overnight delivery of out-of-town mail in the most recent fiscal quarter were only two in five. For local mail, the chances were about nine in 10.

There is, of course, no way of knowing whether a particular letter will be one of those delivered overnight, and the chances of getting overnight delivery are slimmer when letters are addressed to cities in distant states.

ODIS figures show that in the postal fiscal quarter ended March 29, first class letters mailed from Washington, D.C., and from Manhattan, N.Y., received overnight delivery to specific cities in these proportions:

[In percent]

To:	*From Washington*	*From Manhattan*
Akron	9	4
Boston	19	14
Brooklyn, N.Y.	17	60
Chicago	9	6
Cincinnati	17	2
Detroit	17	6
Los Angeles	10	2
Miami	5	1
Richmond	74	7
San Francisco	15	2
Manhattan, N.Y.	44	73
Washington, D.C.	90	21

Despite this performance, the Postal Service periodically tells Congress and the public that it is meeting, or nearly meeting, its overnight delivery standards. What the Postal Service defines as overnight delivery is often quite different from what one would expect.

Overnight delivery of air mail is promised only if it meets certain tests. It must be deposited in special, white-topped collection boxes; it must be zip coded; it must be mailed before 4 p.m.; and it must be addressed to certain cities generally not farther away than 600 miles.

Since the identity of these cities is known only to the Postal Service and is constantly changing, a mail user has little chance of knowing whether his letter will be delivered the next day.

Indeed, says Miss Seeman of the ODIS system, only about 2 per cent of total air mail volume meets the overnight standard of the Postal Service.

For first class mail, the Postal Service has established a standard for local delivery that represents an erosion of service when compared with the standard of the old Post Office Department.

The old standard promised overnight delivery within a state. The new one promises it only within local delivery areas, only if letters are mailed before 5 p.m., and only for 95 per cent of the mail.

A substantial portion of business mail is deposited after 5 p.m., postal officials said, and some question whether a 95 per cent standard is good enough for the mailer who wants to know his letter will get there the next day.

For out-of-town mail, the Postal Service standard allows as many as three days for delivery. In part because of this generous time span, the agency was able to claim that a historic subpoena requesting President Nixon's appearance in a Los Angeles courtroom arrived only a day late—although it took six days to make the trip from Los Angeles to the D.C. Superior Court.

The Postal Service did not count two of the days because they were holidays.

Despite the leniency of the standards, the ODIS figures show they often are not met. This has not deterred the Postal Service from claiming they are.

The basis for the claims is often a different measuring system that uses specially prepared envelopes sent through the mails by postal employees. These envelopes—called test letters—generally portray service in a more favorable light than the ODIS system.

The GAO has reported that air mail test letters bore markings that made them readily identifiable as test letters to the clerks who sorted the mail. The clerks singled them out and gave them speedy treatment, including dispatching them in specially marked pouches.

On the basis of these purported tests, Klassen claimed in the fiscal 1971 report the agency was "close to the attainment of its performance standards for air mail. . ." Postal officials made similar claims in 1972 Senate hearings.

The unreliability of the tests is no secret. Marie D. Eldridge, former statistical director of the Postal Service, said internal auditors periodically reported that clerks ran across work room floors carrying the special letters.

Nevertheless, the Postal Service spent $4 million in a little over a year to send air mail test letters, GAO reported. Although these tests have been stopped, local post offices continue to send test letters to measure the service they provide local residents.

The D.C. post office sends about 600 of the letters a week. They are small, prestamped envelopes that bear the notation, "MAS," which stands for Methods and Standards, the department that sends them out.

Robert H. Brown Sr., a clerk in the D.C. post office, said supervisors instruct employees to look for the letters and speed them on their way. "It is a farce," he said.

A supervisor whose suburban Washington home is a recipient of the letters said they have never taken more than a day to be delivered.

L. A. Hasbrouck, who sends the letters from the D.C. post office, said, "I don't deny that the mailings could be identified as test letters."

Asked why taxpayer money is being spent to send them, Hasbrouck did not reply directly. Instead, he said the "MAS" notation is gradually being removed from plates used to print addresses on the letters.

If the test letters appear to be a dubious expenditure, the $200 million spent by Americans last year on air mail represent, in the view of Rep. Lester L. Wolff (D-N.Y.), a "fraud."

When air mail was first flown in 1918, paying the extra postage for an air mail stamp was the only way to get air service. Today,

nearly all mail sent outside local delivery areas goes by air.

The Postal Service claims the extra 3 cents for an air mail stamp buys the fastest possible service to any point. Special, white-topped air mail collection boxes bear stickers promising overnight service even in local delivery areas.

But the ODIS figures show the extra air mail postage generally buys slower service. Air mail was delivered overnight 21 per cent of the time in the most recent postal fiscal quarter, or about a third as often as first class.

Even local mail that carries air mail postage—as suggested by air mail collection boxes—gets there far slower than first class, the ODIS figures show.

The figures also show that air mail has a slight advantage over first class if it goes more than about 400 miles, but the Postal Service promises speedy air mail service over any distance.

The answer to the mystery of slow air mail service, according to postal experts, is that the special, costlier treatment given air mail has the effect of slowing it.

"You divert air mail to a separate center, and in the meantime the first class is running like hell through the system," says M. Lile Stover, who was director of distribution and delivery until 1969.

In addition, Stover and others said air mail addressed to nearby cities with no air service is sent back to the first class section for delivery.

Indeed, said Mrs. Eldridge, the former statistical director, "Air mail often goes back and forth several times."

Terming air mail a "fraud on the American consumer," Rep. Wolff of New York last year asked the Federal Trade Commission to investigate the Postal Service for possible violation of deceptive advertising laws.

The FTC declined on the grounds it cannot investigate another government agency.

"A government agency should be more responsible than companies in the private sector," Wolff said. "It seems to me incredible that a government agency is allowed to get away with defrauding the American public."

Those who pay 60 cents extra for special delivery service also might not get what they pay for.

Clerks in the special delivery section of the D.C. post office said special delivery for downtown businesses is delivered with regular mail, and special delivery for residences is specially delivered only if the regular carrier has already left.

In New York, only 35 per cent of special delivery mail received special service on a typical Tuesday, a House postal subcommittee was told in 1970. Most of the special deliveries were of packages.

"If a private company charged extra for special delivery and didn't specially deliver, it would be referred to the Attorney General for investigation," said Rep. Edward I. Koch (D-N.Y.). "As far as I'm concerned, its fraud."

LITHUANIAN INDEPENDENCE

Mr. CURTIS. Mr. President, this Saturday—June 15, 1974—marks the 34th year since the Soviet invasion of Lithuania. It might be more apt of me to say that June 15 marks the 34th year since the beginning of the Soviet persecution of Lithuanian institutions and ideals.

In violation of three nonaggression treaties, thousands of Red army troops marched into Lithuanian on June 15, 1940, to forcibly replace the government with a provisional government that eventually led to the declaration of Lithuania's status as a "Soviet Socialist Republic." With this Soviet-imposed declaration, Lithuania has lost all of its national autonomy. Its rich historical, cultural, and religious heritage is denied preservation.

An autonomous Lithuanian empire was first created in 1251 by Mindaugus the Great. The status enjoyed by Lithuania during the Middle Ages was, indeed, considerable. During the 15th century, Vytautus the Great successfully defended Lithuania from Mongol and Tartar invasions, thereby protecting the weaker empires of Western Europe. Lithuania under Vytautas was predominately Christian and in close contact with both Rome and the rest of Europe.

The Lithuanian-Polish Commonwealth was established in 1569 in reaction to the emergence of Russian imperialistic sentiment. But in 1795, the Commonwealth was finally partitioned among Russia, Prussia, and Austria, with the greater part of Lithuania falling to czarist Russia.

The people of Lithuania clung to their traditions and culture. Their spirit successfully resisted the Russian attempts to replace the Lithuanian language with Russian. So faithful were the Lithuanians to their cultural heritage that Russification attempts were abandoned in 1905.

From 1915 until 1918, Lithuania was subjected to German occupation. In 1918, Lithuania was granted her independence and in the succeeding years established friendly relations with Soviet Russia. But Soviet Russia evidently still coveted Lithuania.

June 15, 1940, marks the Soviet invasion of Lithuania.

Since 1940 every attempt has been made by Soviet Russia to culturally incorporate Lithuania into the Soviet Union. The Soviets met with resistance everywhere.

Lithuanians were a religious people and strongly adhered to Catholicism. The Soviets attempted to forcibly abolish Christianity in Lithuania as they attempted to abolish all cultural and intellectual Lithuanian traditions.

Out of frustration with the massive resistance of the Lithuanian people, the Soviets began genocidal operations which to this date have obliterated one-fourth of the Lithuanian population since 1940. Lithuanians today, after enduring 34 years of Soviet persecution, still cling to their national identity.

The Soviet Union does not truly rule the Lithuanian people. The relationship between the Soviet Union and Lithuania is one of captor and captive. Lithuanians continue to resist subjection and although they are very much aware of their captive status, they continue to maintain their traditions as best they can.

Mr. President, let us use June 15 as the day to remember the strivings for freedom of the captive people of the entire world. Let us remember the valiant struggle of th Lithuanian people. Let us welcome a Soviet-American détente, but let us not condone cultural persecution within the Soviet Union.

And let this day serve as our reminder to abolish persecution and discrimination within our own country, whether the persecution is racial, intellectual, or institutional.

INDUSTRY WEEK MAGAZINE WRITER CALLS LAWS AND GOVERNMENTAL REGULATIONS MAJOR BARRIERS TO COAL'S COMEBACK; IMPROVEMENTS IN MINING TECHNOLOGY ARE COMING

Mr. RANDOLPH. Mr. President, the June 70, 1974, issue of Industry Week magazine contains an article by John J. Mullally, "Will Coal Be King Again?" The author, in evaluating the coal situation, expresses the view that—

> Although the relatively backward state of coal mining technology gets much of the criticism . . . the major barriers to coal's comeback are laws and government regulations.

With energy being a substance and a subject of vital importance to this country, we should look carefully at reports and writings by groups and individuals with good credentials.

Key points of the article include the comment that:

First. We have the capability to become self-sufficient in energy supplies.

Second. A doubling of coal production should be possible, even by 1980.

Third. But, there are not enough coal producers today that see new, long-term contracts coming down the road to warrant their making the investment.

It is my hope, Mr. President, that the actions taken by the House of Representatives on Tuesday—and by the Senate on Wednesday—in approving the conference report on H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, will prove to be helpful in converting more powerplants to coal and otherwise enhancing coal utilization without being detrimental to the environment. It should stimulate more long-term contracts and greater capital investment support for coal mine investment on the part of the money markets.

Mr. President, the article, "Will Coal Be King Again?" is an incisive account of coal's problems, potential solutions, and reasonably predictable future. But, more than this, it faces the realities of not only the fossil fuel—coal—but, also, of the acuteness of the energy situation as a whole.

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

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

WILL COAL BE KING AGAIN?

Many alleged energy experts point to this country's vast coal reserves—and the utilization technologies that will result from a $20 billion R&D push—and say they can see the light at the end of the tunnel.

However, until that coal is ripped from the earth it is only so much black dirt and the technology advances are mere academic exercises.

The light in the tunnel is visible; it's a coal miner's lamp, and it's just at the entrance. And the forces that will make this miner more productive by 1980 do not involve lasers from the laboratory; they are laws from legislators.

Domestically, we are sitting on an estimated 200 billion tons of coal, about 90% of the nation's fossil fuel reserve. The vastness of this supply dictates that we use it to solve the present—and future—energy crunch.

"We're the Saudi Arabia of coal," says Ernest S. Starkman, vice president, environmental activities staff, General Motors Corp.

"One of the ironies of our energy problem," says Secretary of the Interior Rogers Morton, "is that we use so little of our abundant energy resource."

TWO NECESSARY STEPS

Last year, domestic coal companies produced 600 million tons of coal. Interior's Office of Coal Research has called for tripling this production by 1985—an annual rate of almost 2 billion tons—if we are to meet the demands provided by advanced usage technology.

"This is a tall order," understates Secretary Morton, who believes it can be met if two things take place.

"First, we will need to make a market for this much coal, which is mainly a function of its environmental acceptability.

"Second, we will have to find ways of producing enough coal, at acceptable social and economic cost, to satisfy the market we have created. The requirement here is for a coal industry capable of delivering the coal that will be needed," said Secretary Morton in an address to the West Virginia University School of Mines.

These qualifications almost uncannily dovetail with the stance of coal industry spokesmen.

Says William V. Hartman, vice president-special projects, Peabody Coal Co., St. Louis, "The No. 1 problem that I see is the EPA moratorium on so-called high-sulfur coal in 1975, which means that all existing facilities and new facilities cannot use high-sulfur coal beyond that date."

High-sulfur coal, the type that would be banned by the Environmental Protection Administration accounts for almost 90% of all the coal found east of the Mississippi.

"Any potential customer [coal user] . . . has this to reconcile with," adds Mr. Hartman.

"Of course, this directly affects us. Can we put in a mine and spend money that will be necessary in an operation that would normally last 20 years, with the sword of Damocles hanging over us next year?"

The investment for putting in a medium large mine, one producing about 1 million tons per year, is about $20 million, says a National Coal Assn. spokesman.

Also, before one shovel of dirt is turned to put in a new mine today, "all the coal that that mine is expected to produce is, in effect, sold . . . it's under a long-term contract," says Jack Chisholm, group vice president-coal operations, Pickands Mather & Co., Cleveland.

"There aren't enough coal producers today that see new, long-term contracts for coal coming down the road to warrant their making the investments," says James W. Wilcock, president, Joy Mfg. Co.

"Coal mines can be financed only through some sort of assurance that a market will exist long enough to amortize the investment. The uncertainty as to what we will do meantime paralyzes the investment decisions," says Secretary Morton, regarding federal action guaranteeing coal demand.

To assure these long-term contracts, Mr. Wilcock stresses the need for federal legislation to direct that all future boilers, with the exception of nuclear facilities, be coal-fired, and to attempt to have present boilers converted to coal in a reasonable period of time.

He also states that there must be waivers granted for the burning of high-sulfur coal until near the end of the decade, at which time utilities would have to install some type of sulfur emissions control system.

"In the meantime, under these conditions, the utilities would have no choice except to issue contracts," says Mr. Wilcock. These longer-term contracts for coal would then trigger the expansion of old mines and the addition of new mines, he believes.

If this type of legislation comes to fruition to assist coal mining, there are other regulations that still will frustrate the industry's attempt to meet even its present demand.

The coal industry's capability to produce coal as required has been graphically demonstrated; almost each year its productivity increased, based on tons per man per day (T/M/D), until 1969.

The underground mine had reached an industry peak of 15.61 T/M/D. In 1969, the productivity indicator slid to 13.76 T/M/D. Last year, productivity decreased further to 11.91 T/M/D.

Industry spokesmen agree that the major cause of this dramatic drop is the 1969 Mine Health & Safety Act. They note that they are not challenging the law or the value of it. However, they do take serious issue with the enforcemnt procedures.

"If these laws are not enforced with more logic and less silly harassment, you are going to continue to have a drag on productivity," says one spokesman. . . .

TRAINED MANPOWER REQUIRED

Another aspect of the health and safety legislation slowed down productivity and also added to the skilled manpower shortage underground mining faces. Industry sources estimate that about 700 underground mine foremen were taken out of productive mining positions and made safety inspectors.

To counter the manpower shortage, industry, government, and academia already have begun to act in concert. Last June, 260 mining engineers were graduated in the U.S. Although this number is small, it is two and one-half times the number graduated in 1970.

Mr. Hartman of Peabody Coal adds, "We have to find people who recognize the advantages of working underground. We have our own training schools . . . we get applicants who desire a position in an underground mine and have no experience, and we train them."

Before these people can be trained, they must be attracted to an industry that admits it has "an image problem." One of the most often suggested remedies for this "image problem," voiced by both management and labor, is one of the most basic requirements for meeting the coal demand of the 1980s and '90s: improved mining technology.

Mining technology and extraction methods have not exactly moved at a Space Age rate.

As late as 1947 all of the bituminous coal in the U.S. was mined either by hand or first-generation mining machines, says a coal technology spokesman at the Battelle Memorial Institute, Columbus, Ohio. In the 1950s the advanced continuous-mining method came into prominence and has been the mainstay of the domestic coal industry.

There have been some advances in technology, namely European-developed long and shortwall mining techniques. But in 1971 these methods accounted for only 2.5% of domestic production.

"It's rather ironic that recent criticism has been directed to mining machinery manufacturers for barely being beyond the pick-and-shovel stage when at least two of these companies [out of four] publicly reported unsatisfactory 1973 income, due to low volume sales of coal machinery," says Kent E. McElhatten, president of the Pittsburgh-based National Mine Service Co., and one of the original designers of the continuous-mining machine.

This lack of revenue has apparently dampened R&D efforts and led to a trimming of research funds. However, money is coming for stepped-up R&D efforts.

"Congress has provided $7.5 million supplemental appropriation for fiscal '74 which is for excavation and mining research," says Dr. Robert Marovelli, division chief for mining research, health, and safety of the U.S. Bureau of Mines. Next year the division is expecting a mining R&D allocation of $46.5 million.

The reason for the massive infusion of funds is not simply the lack of a coordinated R&D effort from the industry. The Office of Coal Research has stated: "Present coal mining technology is inadequate to the task of producing the quantities of coal which are projected to be required by 1985 at acceptable environmental and social cost."

And so the office plans to divide its research efforts and money along two paths: surface or strip mining research and underground research.

Because underground is the more complex and technologically oriented extraction method, most of the funds throughout the entire five-year life span of the program are for underground technology. The proposed five-year budget for all extraction methods is $334 million.

The underground research efforts will involve the following areas:

High-speed mine development systems.

Automated longwell mining machines.

Automated/remote control continuous mining.

Automated continuous roof supports.

Mining systems for western coal .

Environmental protection of surface areas near underground mines.

Advanced mining systems.

Underground coal gasification.

If these efforts are successful, mining experts foresee individual productivity increases of as much as 50% in certain areas and cost savings of 25% for new mine construction.

Guided by the two interrelated considerations of economics and environmental protection, the government R&D effort will address two areas in surface mining:

Improved surface mining systems.

Improved excavation and reclamation equipment.

In addition to government R&D into future technologies, universities, through their mining colleges, and private institutions are funding research efforts to produce the needed technology.

One such private program is being conducted by Battelle Memorial Institute. This $25 million, five-year effort concerns the entire coal technology spectrum, from extraction technology to end-use technology, and will involve such areas as burner technology, methanol production, and chemicals from coal.

A major portion of the research will concentrate on mining operation experiments which include a systems approach to underground mining, machine utilization in surface mining, and reclamation in surface mining.

Although all of the government and private R&D efforts are welcomed by the coal industry, the industry also realizes that these projects are to last for five years.

Before these programs come to an end in 1980, the domestic coal industry still is expected to double its production with present technology.

Today, coal company spokesmen state that their mines are operating at capacity. But they emphatically assert that their capacity is not limited by technology; it is limited by the legislative and economic conditions under which they must operate.

"A doubling of coal production should be possible even by 1980 if the needed incentives were provided," states an expert from the Cornell Workshop on the National Energy Research & Development Program.

If the incentives are provided, an immediate impact will be felt by the mining machinery manufacturers. The impact, they

believe, will not take the form of quantum technology jumps in machinery, but simply that of supplying the present machinery to meet the created demand.

"The availability, or lack thereof, of coal face extraction machinery may, in the final analysis, prove to be the lone insurmountable problem in meeting the coal production requirements," says Mr. McElhatten, whose National Mine Service Co. is now estimating leadtimes on new equipment at 14 months.

This leadtime is certainly not unique within the industry. "If we could ship as fast as they order," says a spokesman for Jeffrey Mfg. Co., Columbus, Ohio, "we'd be sitting on top of the world. Right now, it's not next month; it's next year."

Manufacturers of surface-mining equipment face the same leadtime situation. Marion Power Shovel Co. Inc., Marion, Ohio, gives a leadtime of "two years, possibly longer."

For the type of massive power shovels and draglines required for surface mining, there is an additional six- to 18-month on-site assembly time.

The reasons for these leadtimes, say industry sources, are individual design requirements and manufacturing space. The Cornell Workshop report also states that the power shovel and dragline manufacturers have been given 18-month leadtimes on large gear cutters, which are vital to production.

A manufacturing spokesman further states that the leadtimes are for those pieces of equipment that start design and construction now. Marion Power Shovel estimates it has a four-year backlog of orders.

Even working with tremendous backlogs and with the government pouring millions into coal technology research, the R&D departments of the manufacturers and the coal companies have certainly not been idle. Nor have the manufacturers and the operators been pursuing their own goals for technology advancement.

"The degree of success of any new mining venture or profitable continuation of an existing operation may well be decided by the relationship between the mine operators and equipment manufacturers," says Mr. McElhatten.

Because of this cooperation and understanding of each other's difficulties, spokesmen say that near-term technological advances will be mainly improvements in existing equipment and better utilization of the equipment—but with few, if any, breakthroughs.

One recent major advance is a technological development by Consolidation Coal Co., which conceivably could boost mine output by 50%.

Basically, it is a hydraulic, in-mine transport system for mined coal. The coal is crushed, slurried, and pumped from the mining machine directly to the surface.

Present operations call for coal to be ripped from the coal face by a continuous-mining machine and dumped into a shuttle car, which then moves to unload at a conveyor belt or another shuttle car for rail transport to the surface.

While the shuttle car is away from the continuous-mining machine, the machine must stop mining. Because of this delay, mining machines are able to produce only about half the time.

The Consolidation system thus is expected to allow the continuous-mining machine to genuinely be continuous.

TOMORROW'S TECHNOLOGY

After the next ten or 20 years, what promise does ultra-advanced technology hold for coal?

Engineers and unrestrained planners at Marion Power Shovel have toyed with the idea of lasers for breaking coal and stripping overburden at surface mines. However, Marion spokesmen caution that this is pure blue-sky design and nowhere near reality.

"I think that if you are talking about Buck Rogers-type technology," says a Bureau of Mines spokesman, "you are looking at fewer men underground, remote control . . . keeping men back from dangers, may be in air-conditioned cabinets where all they will be doing is monitoring operations. Some foresee such things as surface-controlled underground mining with TV monitors. Now this is really way, way out. No one sees this as being a practical approach."

And people in the coal business are practical people. They realize what is expected of them, and they realize they can do it.

However, the immediate answer is not a well-funded, man-on-the-moon type of technology push from Washington.

A large part of the answer, however, does come from Washington—in the form of new legislation, revised legislation, and logical enforcement of existing legislation.

"We have the capability to become self-sufficient," states E. P. Berg, president and chairman, Bucyrus-Erie Co., South Milwaukee, Wis. "It is vital to our future welfare and urgent that constructive steps be taken as soon as possible. It is up to the government to enact legislation which will allow the energy industries to move forward now."

TIRED OF SOLZHENITSYN?

Mr. BUCKLEY. Mr. President, the official publication date for Alexander Solzhenitsyn's "Gulag Archipelago" is fast approaching and should rekindle interest in the plight of those millions of Soviet citizens he so eloquently represents.

We cannot afford to forget that Solzhenitsyn's exile and the treatment of those who remain in the U.S.S.R. stand as testimony to the fundamentally totalitarian nature of the Soviet state. This is something we should bear in mind as we continue down the perilous road of "détente."

Mr. President, Alfred Kazin recently made an analysis of Solzhenitsyn's importance for the "Village Voice" that I think should be read by as many Americans as possible.

As Kazin points out:

It was Solzhenitsyn who, from the moment he came to our attention with the ominous sound in "Ivan Denisovitch" of a guard rousing his captives by beating a hammer against a pipe, made us witnesses to the fear and cruelty on which the (Soviet) system rests.

Mr. President, I ask unanimous consent to print Mr. Kazin's article in the RECORD.

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

TIRED OF SOLZHENITSYN?

(By Alfred Kazin)

"The Soviet poet Yevgeny Yevtushenko has apparently apologized for his protest last February of the expulsion of the novelist Alexander I. Solzhenitsyn with a new poem. The new epic poem, ostensibly dedicated to the workers at the Kama River truck-assembly plant, a favorite Soviet economic project, incorporates an attack on the exiled writer, although Mr. Solzhenitsyn is never mentioned by name. He is referred to as a 'mock-Russian' who 'sings mournfully into his beard' about Czarist times."—New York Times, May 23, 1974.

"Even here in Zurich, the KGB has continued its provocations, Soviet citizens who make no secret of their origins telephone or come uninvited to my home. They warn me to be careful of my children. I first received such threats a year ago in Moscow in letters written to me by mythical Soviet gangsters. . . ."

"Now these threats are repeated by my Zurich callers as 'sympathetic warnings' against Western gangsters. But my experience has proved to me that all the gangsters in my life come from one and the same organization."—Alexander I. Solzhenitsyn, Time, May 27, 1974.

When Alexander Solzhenitsyn was forcibly thrown out of the Soviet Union, there was a brief flurry of protest—among writers mostly, of course. But by now the outside world—and many, many writers in it—have found that we can live very comfortably with the thought of Solzhenitsyn in exile. As many people pointed out even before Solzhenitsyn's plane had landed in Frankfurt only some dark sympathy for Nazis made Solzhenitsyn go first to Germany. He obviously had a lot of money in Swiss banks; his family has been allowed to join him; his views are suspiciously conservative, even critical of the West. His worst crime was to show that Vlasov's army of deserters from the Red Army represents the most amazing rebellion in wartime by any modern army. So the Russians have already boasted in their press of their cleverness in getting rid of Solzhenitsyn. They modestly admit that they have "obliterated" him.

Exiles do have a way of sinking out of sight. Though we can anticipate that the imminent publication in English of Solzhenitsyn's monumental description of the Soviet prison and labor system. "The Gulag Archipelago," will soon revive sympathy and admiration for Solzhenitsyn, it is possible that after that subsides, Solzhenitsyn in Zurich will have as little political and moral influence in diminishing the Soviet system as Nabokov in Lausanne. Russians out of Russia do not have the influence, even on Western opinion, that Russians can have in Russia. A famous French authority on the subject, Eugene de Vogue, noted that "the Russian, ruled by the sentiment of mutual dependence, is never willing to cut the thousand ties which bind men, actions, thoughts, to the rest of the universe; he never forgets the natural mutual dependence of all things." As a long-standing admirer of the Russian critic and novelist, Andrei Sinyavsky, I was shocked by how long it took me to learn that Sinyavsky had finally been released from a camp and had settled in France.

You may be "tired of Solzhenitsyn," and I have heard more than one writer say, in good American literary fashion, "he's made more than I have!" But unlike any living American writer you can think of, Solzhenitsyn is destined to remain a political symbol and may very well have a lot of political influence—whether he wants it or not. Solzhenitsyn seems to be the one writer produced by Soviet society itself who is determined to expose Leninism, root and branch—to destroy the fiction that the tyranny of the bureaucracy represents anything but the perpetuation of its own power and of the old Czarist belief that the only function of the masses is to obey.

Leninism has much to answer for, not least the influence on Nazism of what one historian has called the peculiarly modern idea that "there are entire classes of people whose very existence is objectively a crime and who must therefore be cut off society's body like a diseased limb. The question of individual guilt or responsibility is irrelevant." But brutal as Leninism has been toward the Russian people and many in Eastern Europe, it has dishonestly justified its practical politics—making unrelenting war on a large segment of one's own people. The Leninist fiction is that systematic terror is always necessary and will somehow lead to the elimination of all social conflict.

Writers in America cannot easily under-

stand that the function of literature in the Soviet Union—even of the most arcane poetry—has for a long time now been to expose propaganda, those unbelievable, generally unbelieved but enforced fictions on which the system rests. American society is full of profound class and race violence, is marked by terrible deprivations, is plainly unjust to many people. But we have no lack of documentation, of truth-telling exposes, of resources for demolishing the myth, if myth there remains, of America as an "ideal" society. *Our* literature suffers no great truths. It suffers from trivality, the absurdity of purely sexual or material goals, from the exhaustion of pursuing success and of generally achieving it. Above all, it suffers from the fact, as is true everywhere in Western society, that our quest for individuality does not have the requisite sources in personality.

But Soviet society suffers from a theology that is still able to command frightened obedience from millions of people, even from thousands of the professionals necessary to a technocratic society. The attraction of Communist theology is no longer its apocalyptic view of history. But Communism has set up the national sense of compulsion, the overwhelming drive, that has managed to lift bumbling old Russia into a superpower. The gospel of unlimited progress under "Communism," which no one believes actually exists, was enough to unite all the professional patriots, functionaries, and propagandists against the *seven* dissidents who actually stood up in Red Square against the occupation of Czechoslovakia.

Now Solzhenitsyn is not a "great" writer, at least not a writer on the grand scale, as "August 1914" showed. It may be that writers on the grand scale, as we can see in the case of that deluded super-rationalist Sartre, are not what we particularly need just now. But Solzhenitsyn is something better than that chimera of the "great" writer, the universal genius, left over to us from the 19th century: he is a documentarian, a truth-teller, in the deepest sense of the word a *fact* man. Thanks to his voluminous intelligence, the kind of absolute pitch that writers do bring to their memories (especially about prison), and his scientific training (from Pushkin to Nabokov the mark of the really "enlightened" writer in Russia), he has planted in his mind everything he has ever learned and read about the Russian penal system. And the particular thing that makes him so exhilarating to Russians in and out of Russia, despite the painful nature of his material in "One Day in the Life of Ivan Denisovitch." "Cancer Ward," and especially "The First Circle" that prime document of the absolute hell that Soviet Communism has been for millions of innocent people, is his expose of the absolute unreality on which Leninism rests.

Unreality, because despite the widespread and exacted obedience to the regime, the Russians no longer believe in the lies they *had* to believe in when they told these lies to themselves. The Russians, given the siege mentality that has dominated their history and that has been their justification for so much suffering, may possibly, in the protracted crisis of the West, hold out longer for so-called Communism than even they know. But Solzhenitsyn has been more feared by the regime than any other Soviet writer, and more hated by the toadies in the Writers' Union, because he has completely and systematically removed himself from Leninism. As the six members of the Writers' Union in Ryazan complained when they expelled the seventh, Solzhenitsyn, he is a "talented enemy of Socialism"—by which they mean Leninism.

Solzhenitsyn in "The First Circle" had the courage to show how infinitely more liberal and humane Russian culture was before 1917, just as only Nabokov has persisted in telling the outside world, in the face of the widespread Leninist lie, that the exiles from Communism were generally democrats, not "White Guards." It was Solzhenitsyn who, from the moment he came to our attention with the ominious sound in "Ivan Denisovitch" of a guard rousing his captives by beating a hammer against a pipe, made us witnesses to the fear and cruelty on which the system rests.

Gogol said in gratitude to Pushkin—"He always said that I was especially endowed to bring into relief the trivialities of life, to analyze an ordinary character, to bring to light the little peculiarities which escape general observation. The reader resents the baseness of my heroes; . . . I should have been pardoned had I only created picturesque villains; their baseness is what will never be pardoned. A Russian shrinks before the picture of nothingness. "That, especially in "The First Circle," is why Solzhenitsyn has earned the hatred of the Soviet regime as no other writer has. He has exposed to the whole world the fraudulent historical "purpose" and concern for social justice that underlies the Lenin-Stalin-Brezhnev power system that today, as in 1917, is armed mostly against its own people.

One change has occurred recently: there are more and more willing exiles from Russia. All over the world now there is a new Russia in exile whose purpose, even when unknown or unacknowledged, is to move mentally back into Russia, to provide alternatives to what, too long, has been taken as the fatal necessity and inevitability of Bolshevism in Russia. Solzhenitsyn is and will be even against his will, a prime symbol of this Russian mind freed of Leninism. We will find ourselves more and more drawn to him, even if we don't wish to be. For as the Soviet system must always push onward, must always engage in struggle, militancy, war, so Solzhenitsyn and the community he makes by his books will seem, simply by the force of his documentation, a response to terror and morally at least, an alternative. There are more and more exiles from Russia; there will be more and more. And whatever their disagreements and futilities, they will bring out the simple truth of what Russia is and has been.

INFLATION'S IMPACT ON MOST FAMILIES WORSENS IN 1974—TAX RELIEF A MUST

Mr. HUMPHREY. Mr. President, as chairman of the Subcommittee on Consumer Economics, I released a staff study several months ago on "Inflation and the Consumer in 1973." Now that the first quarter results are available, I want to bring that study up to date.

Economic statistics from the first quarter of 1974 show consumers to be much worse off now than last year. The severe inflation of 1973 continued and actually worsened in the first quarter of 1974. All measures of real earnings in the first quarter of this year showed sharp declines. The broadest measure of purchasing power, real per capita disposable income, declined at an annual rate of 7 percent in the first quarter, the largest decline since the 1930's.

The Consumer Price Index in the first quarter rose at a 14.2 percent annual rate, the largest such rise since 1951. Food increases accounted for only one-third of this rise, compared to one-half in the 1973 inflation. Of greater importance this year are higher transportation costs, which contributed 18 percent of the first quarter inflation compared to 7 percent last year. This was caused mainly by a doubling (at an annual rate) of gasoline and oil prices in the first 3 months of 1974.

Housing costs rose somewhat more rapidly than last year, contributing to 30 percent of the first quarter overall rise. The increase again is due to rising fuel and utility costs, mainly, which were up at an annual rate of 27.8 percent. By far the largest contributors to inflation in the first quarter, then, were food, 31 percent, housing, 30 percent, and gasoline and oil, 21 percent.

Because of the greater predominance of food and housing costs in a low-income family budget, the poor were again hit hardest by the first quarter inflation. The only good news for the poor came in the relatively small increase in rents and the stability of public transportation prices.

The Wholesale Price Index increased at a 24.8 percent annual rate; these increases mean that the higher consumer prices we are seeing now will continue well into 1974. The prices of industrial commodities rose by 29.2 percent, insuring higher prices for durable consumer goods in the future.

Although income after taxes went up in the first quarter (at a slower rate than in previous quarters), the increase was more than eaten up by inflation. All measures of real income showed Americans to be worse off in the first quarter than in the previous one. Real adjusted hourly earnings of production workers declined at a 5.7-percent annual rate. Real compensation per man-hour, which includes overtime earnings and fringe benefits and which usually goes up more than other indexes, went down even more—at an annual rate of 6.4 percent. This reflects in part the past year's decline in overtime hours in manufacturing, from 3.8 hours in April 1973 to 2.6 hours in April 1974.

Real weekly earnings decreased more than hourly earnings, also reflecting this slowdown in the number of hours worked per week. Production and nonsupervisory workers' real gross weekly earnings and earnings after taxes dropped 9.1 percent and 9.5 percent respectively at annual rates. The 1973 increase in social security taxes, which hit these middle- and lower-income workers hardest, helps explain this large decrease in real spendable earnings.

A broader measure of purchasing power after taxes, which includes all people receiving income, is per capita real disposable income. Because it includes upper- and middle-class workers it rarely declines. Its growth slowed to 2.4 percent in 1973 but in the first quarter of this year it actually went down 7.2 percent at an annual rate. This is the largest decline in almost 40 years. Total real disposable income also declined, at a 6.5-percent annual rate.

Clearly, if first-quarter trends continue in 1974, the American consumer will have suffered another blow to his standard of living. What is even more discouraging is that this administration refuses to take any steps which will alleviate conditions for those hardest hit by this inflation. The declines in real income for low- and middle-income families in 1973 should have been enough to

make this administration support a tax cut for these families. Now that the first-quarter results show a continuing and in fact worsening trend, it is unconscionable that the President and his economic advisers continue to oppose tax relief.

CAPITAL GAINS AND TAX REFORM

Mr. KENNEDY. Mr. President, at a time when the concern of the vast majority of our citizens is centered on the need for tax relief and tax reform, a determined lobbying effort is being made to persuade Congress to increase still further the tax preference that is now available on income from capital gains. This effort is being conducted on behalf of the investment community and others hoping to widen the capital gain loophole, with a view to encouraging Congress to adopt this proposal under the guise of tax reform.

My view is that Congress should resist this proposal. True tax reform in the area of capital gains lies in the direction of narrowing, not widening, the current preference. Under present law, one of the principal tax preferences accorded to capital gains is that only 50 percent of the gain is included in taxable income. Under the proposal now being urged on Congress, the proportion of capital gain included in taxable income would be reduced by an even larger amount, depending on the length of time the asset is held. In one version of the proposal, the exclusion would be reduced by an additional 2 percent for each year the asset is held, up to a maximum of 15 years. Under this proposal, only 40 percent of the gain on the sale of stock would be included in income if the stock is held for five years; only 30 percent would be included if it is held 10 years; and only 20 percent would be included if it is held 15 years or longer.

The effect of this proposal would be to provide a major new tax cut for the wealthiest individuals in the Nation. At the present time, the tax on capital gains for those in the highest—70 percent—tax bracket is only 35 percent—that is, since a tax rate of 70 percent is applied on half the income from capital gains, the rate is equivalent to a tax of 35 percent on the full gain.

Under the investment community proposal, however, the top tax rate on capital gains would be reduced to 14 percent—70 percent of 20 percent—if the asset is held for 15 years. Ironically, this 14-percent tax rate is precisely the rate that is now imposed on individuals in the lowest tax bracket, those earning $5,300 a year or less.

As my support for the tax relief legislation now about to come before the Senate indicates, I believe that a tax cut is a vital step to improve the equity of our tax system, to provide relief for taxpayers burdened by inflation, and to generate the economic stimulus that the country needs if it is to pull itself out of the current slowdown and recession.

However, priorities must be established in determining who is to receive the tax relief.

The proposal I am sponsoring with Senators MONDALE and LONG would increase the personal exemption from $750 to $825, provide an optional tax credit of $190 in lieu of the exemption, and establish a work bonus for low-income workers equal to 10 percent of their social security payroll tax. Under this proposal, the overwhelming bulk of the $6.5 billion in benefits would go to low- and middle-income citizens. Obviously, these are the income groups that should have the first priority in tax relief.

Yet, the tax cut proposed by those who favor a reduction in the capital gain tax rate would substitute a priority under which the wealthiest individuals become the ones receiving the highest priority for a tax cut. Such a step would be unwise and unfair, especially at the present time, when so many low- and middle-income families are hard pressed by inflation.

To clarify the deleterious effects of the proposal to reduce the rate of tax on capital gains, it is useful to describe how the tax preference for capital gains actually works.

For present purposes, capital gains enjoy two important advantages over other kinds of income under the Federal income tax.

First, a major preference enjoyed by capital gains is the advantage of tax deferral—the tax on a capital gain is deferred until such time as a sale of the asset actually takes place. The income represented by the accumulating gain in the value of the asset goes untaxed, even over a period of many years, until it is finally sold.

For example, if an individual buys a share of stock for $100, holds it for 2 years while it appreciates by $20 in value each year, and then sells it for $140, a tax is imposed on the full $40 of gain in the year of sale, not just on the $20 of gain that occurred in the year in which the sale took place.

Thus, our present tax system recognizes that the increased value of the stock in the first year constitutes income for the individual. But, the tax on the income is deferred until the year in which the stock was sold.

This deferral, a tax preference in its own right, has the effect of an interest free loan by the Government to the individual, in the amount of the taxes that are deferred year by year until the asset is finally sold. Thus, the taxpayer is entitled to take the funds that he would otherwise have paid in tax in these years, and invest them for additional current income.

The second tax preference for capital gains is the widely understood tax rate applied when the income is finally taxed. Even when the sale of an asset occurs, only half of the gain is included in the taxpayer's taxable income. Thus, in the previous example, even though the taxpayers had $40 of gain on the stock, only $20 is included in his taxable income; the remaining $20 goes tax free.

In effect, then, not only does the taxpayer receive an interest-free loan from the Government when he invests in a capital asset, but half the loan is forgiven when the asset is finally sold, because he is required to pay taxes on only half the gain.

The proposal to increase the capital gain exclusion would continue the interest-free loan treatment available under present rules. It would also increase the amount of the income that goes untaxed, from the present bargain rate of 50 percent tax free to an incredible new rate of 80 percent.

In recent years, many tax experts have raised questions about whether the Federal Government should continue the tax practice of making interest free loans to the Nation's wealthiest individuals, through the deferral of accrued tax on capital gains.

Even assuming that the interest free loan program should continue, however, it is clear that we should be moving in the direction of reducing, not increasing the amount of capital gain that escapes the income tax. Thus, one of the principal tax reforms I favor is to increase the amount of capital gain included in taxable income from 50 to 60 percent, thereby achieving a modest tightening of the tax code's current major preference for capital gains.

I do not support efforts to close the gap altogether between the tax on ordinary income and the tax on capital gains, but we must go part way.

The change I propose in the capital gains tax would not substantially impair the flow of capital in the Nation. A major tax preference would still exist for capital gains in the Revenue Code. The top rate of tax on capital gains would increase from its present level of 35 percent—70 percent × 50 percent—to a new level of 42 percent—70 percent × 60 percent—a modest increase of 20 percent in the tax rate.

The new tax rate of 42 percent on capital gains will still compare extremely favorably with the 70 percent top rate on ordinary income. In the Tax Reform Act of 1969, Congress increased the capital gains rate from 25 percent to 35 percent, an increase of 40 percent, and Wall Street did not miss a stride.

The two principal arguments advanced for the proposal to expand the capital gains preference will not withstand analysis.

The first argument is that the capital gains tax is imposed partly on gains created by inflation, rather than on true economic gains. Therefore, say the sponsors of such proposals, the way to take the inflation element out of the tax base is to increase the amount of capital gains excluded from income.

There are two defects in this inflation argument. First, the remedy proposed bears no direct relationship to the inflation problem. Congress might well conclude that only true gains should be taxed. But increasing the exclusion percentage from 50 percent to 80 percent is no guarantee that true economic gains will in fact be taxed. In many cases, it may simply become another windfall for the wealthy.

If Congress wants a measure that will tax true gains, a simple cost-of-living adjustment to the basis of the assets is all that is required.

But such a cost-of-living adjustment may produce greater taxes for capital gains for some individuals and lower taxes for others compared to the present proposal, depending on the period of time the asset is held and the cumulative degree of inflation over the period. But a flat percentage exclusion will hardly ever—except in the most unlikely combination of events—correlate taxable gain with true economic gain, exclusive of inflation. If inflation is the problem, then a blunderbuss approach of expanding the current preference is not the answer.

The second defect in the inflation argument is that the proposal is an elitist one that purports to deal with the inflation problem only for wealthy citizens. At the present time, the various tax preferences for capital gains produce an annual revenue loss of about $9 billion. Nearly one-third of this amount goes to the tiny fraction of families that have incomes in excess of $100,000 a year.

What is being proposed under the guise of tax reform, therefore, is that the few thousand wealthiest families in the Nation are entitled to have their tax burden adjusted for inflation, but that the other 70 million low and middle income taxpayers are not entitled to any adjustment in their own tax burdens for inflation.

One of the most important assets held by low- and middle-income taxpayers is their savings account. Obviously, inflation eats away at each savings account each year. Under the theory advanced by the proponents of greater preferences for capital gains, we should also be giving a tax preference to persons whose primary asset is a savings account. The same is true of investments in U.S. savings bonds; with inflation, the principal amount of the bond is worth less each year.

But we hear no tax reduction proposals to compensate for those losses to inflation that affect so many of our citizens.

In short, we are being told that inflation is a problem in the tax system, but it is a problem that should be solved only for the wealthiest citizens in the country. The low- and middle-income taxpayers, as usual, are left to fend for themselves and to combat inflation as best they can.

The second argument advanced by those who favor an increase in the tax preference for capital gains is that it will reduce the so-called lock-in effect of capital gains by inducing more frequent sales of capital assets. This argument is difficult to accept. The real cause of the lock-in effect in our tax system today is the failure to tax capital gains on property transferred at death.

Under present tax rules, the gain on assets held by a taxpayer at death is never subject to income tax. To return to the earlier example, if the taxpayer held the stock that he purchased at $100 until death, at which time its value was $140, the $40 in gain would go completely free of the income tax. This is the real cause of lock-in for capital gains—the incentive to holders of assets to retain them until death. The solution to the lock-in problem is to tax these capital gains at death.

In fact, the current proposal to expand the capital gains preference might well increase the existing lock-in effect, rather than reduce it, since investors will be encouraged to retain their stock and other assets for longer periods of time, in order to enjoy the increasingly lower capital gains rates that would become available. And, once the asset has been held for 15 years, the wealthy investor would then be faced with the choice of selling it and paying a 14 percent tax, or holding it until death, and avoiding the tax altogether.

Indeed, if the proponents of the capital gain proposal are serious about reducing the lock-in effect, they will join in efforts to tax such gain at death. At a single stroke, this reform would eliminate the present very strong incentive for wealthy individuals to hold assets until death, even though nontax considerations would clearly require that the asset should be sold.

In sum, the proposals now being aired to expand the capital gains loophole deserve the most careful and cautious study by Congress, especially since they are being advanced under the alluring guise of tax reform. To me, such proposals represent no reform at all. They are simply another effort to provide an increased tax preference for the wealthy, at the expense of the millions of low and middle income individuals who already bear too heavy a burden under the tax laws.

Mr. President, this issue has recently been the subject of an excellent analysis by Professors Roger Brinner and Stanley Surrey of Harvard University. I ask unanimous consent that their article, which appeared in the Washington Post on May 26, may be printed in the RECORD.

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

A TAX ESCAPE FOR THE FEW

(By Roger Brinner and Stanley S. Surrey)

In the past year, a group of individuals interested in investment banking and the stock market, with the aid of Washington legal advisers, has been quietly pushing a proposal to reduce the tax on capital gains.

A Senate finance subcommittee already has held little-publicized hearings on the proposal, and it is now being promoted before the House Ways and Means Committee as a "tax reform."

The essence of this proposal is that the proportion of a capital gain included in taxable income—which now is only 50 per cent of the gain—should be reduced still further. The proposed reduction would be in steps of 2 per cent a year for each year the asset is held, up to 15 years. Thus, for stock held for 15 years, only 20 per cent of the gain on its sale would be taxable.

For the wealthiest individuals, those in the 70 per cent top tax bracket, this proposal would thus reduce their tax on the gain from 35 per cent (70 per cent of 50 per cent of the gain) to only 14 per cent (70 per cent of 20 percent of the gain). Ironically, 14 per cent is also precisely the rate of tax applicable to the wages of the poorest taxpayers in the country.

Any reduction in the capital gains tax on the sale of stock or other capital assets will primarily benefit high-income families. Recent statistics of income indicate that individuals and families with incomes above $25,000—about 3 per cent of all tax returns—account for around 55 per cent of all capital gains. Taxpayers with more than $100,000 of income—about 0.1 per cent of all returns—receive about 30 per cent of all capital gains.

There are two defenses made of this proposal—most of whose benefits would go to a small group of wealthy families. The first is that recent inflation has increased tax burdens on the earnings of investors. The second is based on the so-called "lock-in" effect; that is, the incentive to keep investments in a given stock although others may be available offering higher pre-tax returns.

As to the first rationalization offered by supporters of the proposal, it is true that inflation creates stock price appreciation which is subject to taxation, but which does not reflect true wealth appreciation in terms of purchasing power.

If the goal of a neutral income tax is to tax wage and capital income equivalently, it can be argued that only the component of a capital gain which reflects an increase in purchasing power belong in the tax base. But under this view, the correct proportion of the gain which should be included is not an arbitrary and constant number such as the current 50 per cent or the proposed 20 per cent—it is the proportion of the inflated gain which is a true increment of purchasing power.

Given erratic fluctuations in stock market prices and large annual differences in the general rate of inflation in the economy, such a proportion must be a highly variable figure to adjust properly for inflation. While this reasoning indicates that inflation does produce an additional tax burden, it must be noted that the inflation burden does not justify the proposed declining tax rate schedule.

The basic line of reasoning pertains to the tax treatment of assets held one year or 15 years: If the ratio of the purchasing power gain to the inflated gain is the same for any two periods of different length, the inclusion proportion should be the same.

A little further thought should indicate that recipients of capital gains are not alone in their inflation-induced predicament. The individual holding a bond or maintaining a savings account also suffers from an inflation problem which is not recognized under our present tax system.

Moreover, the sponsors of the proposal are quiet about several tax preferences now received only by the owners of stocks and other physical assets. Any increase in value of these capital assets is not necessarily taxed immediately or inescapably. In the first place, the potential income represented by a current increase in value is untaxed until the asset is sold at some future date.

A substantial monetary benefit arises through this tax deferral because the government has effectively provided an interest-free loan equal to the potential tax liability each year. Those who have followed President Nixon's tax problems have seen the value of such a loan—for example, assuming only a 6 per cent annual interest rate, his unpaid 1969 tax liability of $170,000 would require an interest payment today of approximately $45,000.

In addition to this interest-free loan or deferral benefit, only one half of the accumulated gain is typically subject to taxation when the asset is finally sold. Inasmuch as the investor who places his funds in a savings bank or bond benefits from neither of these preferences, it does not seem reasonable to begin an inflation adjustment of the

tax system by according further privileged treatment to capital gains.

To briefly evaluate the position which the contrasting effects of inflation and deferral present to a conscientious tax policy maker, assume that stocks appreciate at approximately twice the rate of increase in consumer prices, as was the case for the 1960–1972 period. Our policy maker, seeking to tax labor and capital income equivalently, should therefore require only a 50 per cent inclusion of current nominal gains in taxable income.

However, a higher proportion of any long-accumulated gains should be included to reflect the deferral benefit. Using the average rates of inflation in consumer prices and stock prices for the recent past approximately 70 per cent of the total gain in a share of stock held for 15 years should be included in taxable income.

This increase from 50 to 70 per cent of course sharply contrasts with the proposed decrease in capital gains inclusion from 50 to 20 per cent over 15 years.

As to the second defense, "lock-ins," two types currently exist. One results from the deferral benefit discussed above. But rather than eliminating this distortion, the proposal would exacerbate it significantly.

The second source of lock-in effects reflects still another tax benefit currently provided for potential income in the form of accrued capital gains; the gain is never subject to income taxation if it is transferred to one's heirs as a bequest.

It seems obvious that the correct response to this second lock-in effect is not the proposed widening of the preferences in the present treatment of capital gains, but rather elimination of the current benefit produced by the tax-escape-by-bequest mechanism.

The defenses of this proposal for capital gains tax reduction thus are wanting in substance. The proposal would bestow huge benefits to a very small group of families. To present this proposal as "tax reform" is indeed ironical.

As we have seen, the proposal hides the current capital gains tax preferences and aims only to increase them, while drawing faulty conclusions about the effects of inflation.

If one were serious about exploring the effects of inflation on the tax system, one could examine the idea of allowing an investor to "write up" the purchase price of an asset by the amount of inflation that may have occurred since the date of purchase, i.e., multiplying the purchase price by the ratio of the consumer price index in the year of sale to the index in the year of purchase.

The corrected gain then could be included in income under a proportion schedule which rises as the holding period increases (to reflect the deferral benefit) and any accrued gain would be subject to income taxation on a transfer at death. Bond holders would be allowed their inflation losses. Other effects of inflation on the tax system would be examined.

COAL CONVERSION AND CLEAN AIR ACT

Mr. BUCKLEY. Mr. President, I appreciate this opportunity to comment on H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974. I am generally satisfied with the outcome of the Conference deliberations over this bill, which provides federal authority to mandate conversion to the use of coal in certain stationary fuel-burning sources and authorizes amendments to the Clean Air Act in order to facilitate such conversions.

The main thrust of the bill is to encourage the return to using coal, an indigenous fuel which this country has in great abundance, and thereby to reduce our dependency on foreign imports of residual oil as the primary fuel burned in electric generating facilities. In order to facilitate such conversions to coal, the bill authorizes extensions in the compliance dates presently applicable to fuel-burning sources for controlling the amount of sulfur oxides and particulate matter which such sources may emit into the atmosphere.

Although this will permit such power plants to delay for a few years the controls which are presently required under State implementation plans to carry out the Clean Air Act, such extensions are confined to plants located in those regions where the health-related primary ambient air quality standards will not be violated.

To this end, I am particularly pleased that the conferees agreed to adopt an amendment which I suggested when this bill was first considered by the Senate; that is, to deny any compliance date extension to any source located in an air quality control regions which does not now meet the primary ambient air quality standards for sulfur oxides or particulate matter. Thus, unless a plant located in such a region can meet the emission limitation presently required for controlling these pollutants, no conversion to coal may take place. This will assure the protection of public health in those regions which are now the dirtiest and which now violate the health-related standards.

Furthermore, no compliance date extension may be granted by the Administrator of the EPA until a fuel-burning source submits and obtains approval of a plan for compliance, which includes its means for compliance and compliance schedule, to meet by January 1, 1979, the most stringent degree of emission reduction that the plant would have had to achieve under the State implementation plan prior to conversion.

Thus a powerplant cannot convert to coal unless it has firmly committed itself to meeting the original state-imposed emission limitation for that plant no later than January 1, 1979.

Mr. President, I would like at this point to offer a comment concerning section 7(c)(1) of the conference report. That section specifies:

> No action taken under the Clean Air Act shall be deemed a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

First, let me say that I do not share the apprehension which others have expressed over the effect of language in the fiscal 1974 Appropriations Act for Agriculture—environmental and consumer protection programs which prompted the amendment to the National Environmental Policy Act embodied in section 7(c)(1). As I read the appropriations statute, it does not in any degree change existing law respecting the extent to which NEPA impacts on the Environmental Protection Agency. Therefore, in my judgment curative amendments were not required.

Second, having said that, let me point out that the NEPA exemption occuring in section 7(c)(1) of the conference report is narrowly confined, as was the NEPA exemption in section 511(c)(1) of the 1972 Amendments to the Federal Water Pollution Control Act, to exempt EPA from only the impact statement duties set out in section 102(2)(C) of NEPA. These specific exemptions, in other words, do not affect the other important provisions of NEPA that may be applicable to EPA in its actions under the Clean Air Act or any other legislation.

It has long been my view that it is desirable that the provisions of NEPA requiring broad-based balancing in decisionmaking, be applicable to all actions of the EPA as well as to those of other Federal agencies. Only through the application of these requirements to all Federal agencies can the tendency to view specific problems with tunnel vision be avoided. It is wrong to focus on one problem, and in attempting to achieve its solution, to create other social and environmental problems. Therefore, it is good policy to require EPA to examine the full range of social and environmental consequences in its decisionmaking. I am aware of court documents to the effect that EPA is exempt from NEPA. If this is in fact the state of the law, then I recommend that this situation be reviewed in any revision of NEPA.

Finally, Mr. President, I am happy to note that H.R. 14368 settles the issue of what automobile emission limitations will apply in model year 1976. I favor the continuation of the 1975 standards for 1 extra year because I believe it important to provide corporate planners with the degree of stability that is necessary to perfect the technology for automobile emission control. Furthermore, manufacturers needed to know last fall what the standards would be for model year 1976 automobiles in order to design emission controls for nitrogen oxides that are technically compatible with the controls that will be in place for hydrocarbons and carbon monoxide in model 1975 cars. In this bill the Congress as a whole has confirmed the action taken by the Senate last December when it passed S. 2772; this was long overdue. I also favor setting the statutory standard for oxides of nitrogen at 2.0 g/m for model year 1977 because, according to testimony before the committee, this is the level which appears to encourage the pursuit of the broadest range of technological options for achieving emissions controls, including alternatives to the catalyst.

On balance, I believe the amendments adopted by the Conference regarding automobile emissions deadlines will contribute to, rather than impede, the progress toward the goal of clean air.

COURT NARROWS "MIRANDA"

Mr. McCLELLAN. Mr. President, in 1966 the Supreme Court handed down its decision in *Miranda* v. *United States*, 384 U.S. 436 (1966), and, in my opinion, caused considerable dismay in the field of law enforcement.

In enacting title II of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351), Congress, in effect, expressed its concern with the rigid requirements of Miranda. Title II provides that a voluntary confession shall be admissible in evidence in a Federal criminal trial and that the absence of a Miranda-type warning was only one factor to be considered by the judge in resolving the voluntariness issue (18 U.S.C. 3501).

Last evening, I was gratified to read the news story in the Washington Star-News reporting that the Supreme Court has eased somewhat the inflexibility of the rule of the 1966 Miranda decision. I have not read the opinion, but according to the news story, the Court, voting 8 to 1, decided that if the warning fell short of the full range of advice set out in Miranda, evidence obtained as a result of police questioning of the suspect might still be used.

Mr. President, I consider this a very important decision by the Court. I count it as one more definite sign that we are slowly getting back to a more rational balance between the rights of society and the rights of the criminal, which had been swinging too far in favor of the criminal.

I ask unanimous consent that the story from the Washington Star-News of June 10, 1974, be printed in the RECORD.

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

COURT NARROWS "MIRANDA"

(By Fred Barnes)

The Supreme Court today narrowed the controversial 1966 Miranda decision, ruling that prosecutors may use some evidence obtained from suspects who have not been advised fully of their legal rights.

The Miranda ruling had barred the use in court of any evidence gathered from a defendant who had not been given a complete warning about his rights to remain silent and to have a lawyer.

Today, the court—voting 8-1—said that, if the warning fell short of the full range of advice spelled out in the Miranda decision, evidence obtained as a result of police questioning of the suspect still might be used.

"Just as the law does not require that a defendant receive a perfect trial, only a fair one, it cannot realistically require that policemen investigating serious crimes make no errors whatsoever," Justice William H. Rehnquist's opinion for the majority said.

"The pressures of law enforcement and the vagaries of human nature would make such an expectation unrealistic," he added.

However, the opinion did not provide specific guidelines on how much error or omission in a Miranda warning would be considered permissible. Presumably, that will depend on case-by-case rulings in the future.

The decision came in one of the most important criminal cases before the justices this term, and was a victory for views held by the Nixon administration and many prosecutors.

The administration had strongly supported the Michigan prosecutor who took the case to the highest court, urging the easing of the Miranda requirement.

Two of the court's liberal justices who ordinarily favor the rights of defendant—William J. Brennan Jr. and Thurgood Marshal—joined in the case with six justices who usually support the powers of police and prosecutors.

Only Justice William O. Douglas, the court's most outspoken liberal, dissented.

The case involved the rape of a 43-year-old woman in Pontiac, Mich., in 1966. Police, following a dog who had been left in the victim's house, arrested Thomas W. Tucker.

Before questioning him, police advised him of his right to remain silent and his right to have a lawyer present. But they failed to inform him of his right to a free lawyer if he could not afford to hire one.

The Miranda ruling required that suspects be told of all three rights prior to interrogation.

Tucker, as an alibi, told police that he was with a friend at the time of the assault. Police then went to the friend, but he linked Tucker to the rape.

The friend testified in court against Tucker, who was convicted. However, a federal judge later upset the conviction on the ground that the friend's testimony was improper since it had resulted from police questioning of Tucker without a full Miranda warning.

The highest court's ruling today reinstates the conviction of Tucker. The majority opinion concluded that none of Tucker's constitutional rights had been violated.

MR. AND MRS. J. MASON DAVIS OF BIRMINGHAM TYPIFY "AMERICA'S RISING BLACK MIDDLE CLASS"

Mr. ALLEN. Mr. President, as its cover story for the issue of June 17, 1974, Time magazine featured "America's Rising Black Middle Class," relating another chapter in the history of the United States that supports our country's unique society composed of peoples from every corner of this globe.

As part of its essay, Time includes a featurette entitled "Two Families That Have Made It." This article tells the success story of Mr. and Mrs. J. Mason Davis, of Birmingham, Ala. The Davis' are widely known for their work in civic, business, education, and political fields.

The story, I believe, illustrates the uniqueness of this land which, time and time again in its long history, has provided opportunities to people from every corner of the world, from every racial and religious background, willing to work toward achieving their goals. There is no question that some have had to work harder than others to take advantage of these opportunities, but I believe that Mr. Percy E. Hughes summed up the feeling of all Americans in his statement quoted on the last line of the article:

I'm happy with the fact that I came up instead of going backwards.

Mr. President, I am pleased and proud that an Alabama family was chosen to exemplify the continuing transition in America's lifestyle, and I congratulate Mr. and Mrs. Davis on their recognition. 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:

TWO FAMILIES THAT HAVE MADE IT

In life-style, attitude and aspiration, the black middle class is almost as diverse as any other ethnic group of comparable income. Some of this diversity is shown in the following two portraits, one of a long-established, upper-middle-income black family in the Deep South, another of a newly arrived middle-income couple in the North.

THE RISING HEIR

On the outskirts of Birmingham stands the black suburban development of Briarmont, where handsome houses sprawl over huge lots arrayed along winding, tree-lined streets. One of the most attractive homes is a $35,000 three-bedroom ranch with avocado green paneling, a sunken living room and a two-car garage. A dark blue Cadillac and a tan Buick compact decorate the driveway. This is the home of J. Mason Davis and June Davis and their two children, the family on TIME's cover.

Lawyer, businessman and politician, Davis, 38, personifies the growing self-confidence and influence of Birmingham's black upper middle class. He is a member of both the state and county Democratic executive committees. His law practice is expanding so quickly that last year he took on a junior partner and now he plans to add another. Important segments of the city's black leadership are urging him to run for mayor.

Davis' rise is the culmination of the dreams of his grandfather, C. M. Harris, who at the turn of the century determined to carve out an economic niche that would shelter his descendants from segregation. He started a funeral home and later founded the Protective Industrial Insurance Co. of Alabama. In 1967 it put up the money with which the Acamar Realty and Insurance Agency—of which Davis is part owner—bought the site for Briarmont. The profits from developing it and other business deals, plus the growing income from his law practice (more than $40,000 last year) could some day make Davis a millionaire.

He has seen Birmingham change from a city so segregated that civil rights workers called it the "toughest town outside of South Africa" to an "All-America" city cited by the National Municipal League for its progress in race relations. In 1961, when Davis returned with a degree from the University of Buffalo law school, "you could feel the tension. The white lawyers weren't friendly. You sort of felt alone." Today, things are relaxed enough for Davis to joke with white judges about his great-grandfather, B. F. Saffold, a 19th century justice on Alabama's supreme court. June Davis, on her job as a psychologist for the city schools, mixes easily with the integrated staff. Says she: "We get along fine, but I don't tell myself that we're in love with each other."

Davis' aristocratic background could hamper his political ambitions. "When you come from a middle-class bag, it's not easy to convince the masses that you're an all-right dude," he admits. Sometimes he must choose between black solidarity and his own best judgment. Example: the county Democratic committee "had to endorse a black for the county commission even though there was a Jewish fellow who was the better candidate. If we blacks on the commission had taken the stump for the Jewish fellow, we would have been vilified as Uncle Toms."

There is, Davis believes, a rift between the black middle class and the black poor, which

is reflected in a wave of burglaries in Briarmont and other "good" black neighborhoods. Since 1971 the Davises have twice been burglarized; they now have iron bars on their windows and keep a German shepherd dog named Santana.

Above all, Davis is concerned with preserving and building on his family's money. "Every person who lived during the Depression feels a sense of precariousness," he says. "I hope that my children always have a wary eye toward their security. It may be that three generations of blacks amass something and that the fourth generation will rip it off." The Davises' children, Karen, 16, and Jay, 11, are being trained to carry on the family tradition. Karen wants to become a musician, but her father hopes to persuade her to become a lawyer. "She's quite a politician," he says. "She went out of her way to meet white kids at high school, while other black kids segregated themselves." As for Jay, Davis says: "There's nothing I'd like better than for him to get his law degree and come back and run the business."

THE STRIVING ENTREPRENEUR

Nearly every Friday, Percy E. Hughes of suburban Greenburgh, N.Y., rushes home from work, quickly changes clothes and with his wife Jackie speeds down the parkway to the evening service at the Bronx Church of God in Christ. Like many black families who have only recently arrived in the middle class, the Hugheses have built their lives around the church. In fact, their dedication to the fundamentalist Pentecostal church may help them achieve one of the most important middle-class aspirations: buying a home. By encouraging the Hugheses' frugality, the church is helping them save the money for a down payment.

At 31, Percy Hughes is a striver who is building a lawn-care business. He has been interested in gardening since he earned pocket money with his grandfather's lawn mower in Gordonsville, Va. At 13 he began spending summers helping his father, who migrated to Greenburgh and had a gardening service. Hughes joined him full time in 1961 after dropping out of a segregated high school because "I had faith I wasn't going to pass English."

Six years later, after he married Jackie, whom he had met at church, his father set him up in the trade. "He gave me an old truck, two mowers and about ten clients," Hughes recalls. Now he owns two trucks and several thousand dollars' worth of lawn-care equipment and employs several workers at $3.50 an hour. He has 45 customers who pay him an averge $60 month; about two-thirds of them, including Singer Cab Calloway and Dancer Pearl Primus, are black. That gives him a measure of satisfaction: "I like to see my people progress. I don't envy them. I take pride in their success because I know where they came from."

Last year Hughes cleared $7,000 from the business and another $1,300 working during the cold, off-season months as a security guard. His wife earns $9,400 as a secretary to David Robinson III, a black lawyer who is regional counsel to Xerox. She started in secretarial work by enrolling in a three-month program in which IBM paid people to study shorthand, typing and English. Now she is learning to be a legal secretary so that she can earn still more.

The Hugheses have something that many other Americans would envy: an almost debt-free life. From the plastic-slipcovered furniture to the color television console, everything in their $217-a-month, two-bedroom apartment is fully paid for. Their only major bill is the note on their 1972 Ford Gran Torino Sport, which will be paid off this year. The Hugheses hope to buy a home within the next five years. Meanwhile, says Hughes, "we're living comfortable, but it'll take me a few years to reach certain goals. I'm happy with the fact that I came up instead of going backwards."

GORGING THE FINANCIAL SYSTEM WITH OIL MONEY

Mr. CURTIS. Mr. President, in the Washington Post of June 12, 1974, a column by Joseph Alsop appeared entitled "Gorging the Financial System With Oil Money."

Mr. Alsop, in perceptive fashion, calls our attention to the economic danger of "unmanageable sums of money" and trade deficits which the world financial system will have to contend with as a result of the oil profit influx. Mr. Alsop quotes David Rockefeller in warning that the present world financial situation could become economically and politically chaotic.

The article is cogent and explicit in its warnings. I think we would be wise to be alert to the very real danger caused by the financial strain of profit influx into the world financial system.

Mr. President, I ask unanimous consent Mr. Alsop's article be printed in the RECORD.

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

GORGING THE FINANCIAL SYSTEM WITH OIL MONEY

In Europe, the economic equivalent of the Bible's "cloud no bigger than a man's hand" is already there, hovering on the horizon for all to see. On all the evidence to date, the cloud foretells a great tempest in the fairly near future.

The nature of the cloud is simple enough. Owing to a lag in the payments system, the oil producing countries only recently began to take in their huge profits from the new high oil prices. They have had most of the money earned in the first quarter of 1974 for not much more than two months. They will not get the profits of the second quarter until midsummer.

Yet even the first quarter profits are proving to be unmanageable. The Arab oil producers, particularly, have mostly banked their money in Europe in the form of short term Euro-dollar deposits. As a result, even the biggest banks are now so gorged with this oil money that they have just begun refusing such deposits at more than 4 per cent interest, or even refusing the deposits absolutely.

In other words, the first outpost of the world financial system to feel the strain is already proving to be unequal to the strain. But this initial strain from the new oil money is a mere trifle to what the whole world financial system will somehow have to withstand before long.

This country's two outstanding forecasters in this field, the staff of the Chase Manhattan Bank and the independent petroleum expert, Walter Levey, have just admitted to excessive conservatism. Fortunately, both estimated that after paying for all possible imports, the oil producing countries would have $50 billion left over to invest at the end of this year. Their new figure is $60 billion.

In other words, this problem of the new oil money is getting bigger, not smaller. With $60 billion to invest, in fact, the oil producing countries will have to find ways to place an amount of money, in just one year, equivalent to about two thirds the total value of all the overseas investments of the United States in the last three quarters of a century.

Nor is that all. Before the new high oil prices, the oil producing countries had already accumulated reserves of about $14 billion. Looking further down the road, the wise head of the Chase Manhattan Bank, David Rockefeller, has recently noted that the oil producers' reserves will reach about $140 billion in 1975, and will pass $200 billion in 1976.

These are enormous transfers of wealth from the rest of the world to the little group of oil producers. As Mr. Rockefeller also made plain, the world financial system has never before had to handle such transfers, and is almost wholly unequipped to do so.

In addition, the majority of the richest oil producers are also unequipped to handle the mountains of gold they are now accumulating. The latest single accumulation will unquestionably be made by Saudi Arabia, for instance. Yet the Saudi Arabian monetary agency is still a vestigal institution, which keeps its books in Arabic—and entirely by hand!

Naturally, in Saudi Arabia and from Kuwait down through the Persian Gulf hotel rooms are literally unobtainable because of the hosts of foreign financiers and promoters who have flocked in to tell the oil producers how to spend or invest their money. Much of this activity is shady, but not all of it. The Chase Manhattan, for instance, is opening a merchant bank as a joint enterprise with the Saudi Arabian government.

For this country, there may even be a short-term gold lining. In the opinion of both Walter Levey and the Chase Manhattan staff, the United States is the natural refuge for final deposits or investment of much of the new oil money. Thus our balances of payments may show huge surplus on capital account, partly concealing the deficit in the trading account that high oil prices will cause.

Over time, however, the poorer nations' total inability to pay for the energy they need; plus the trading deficits due to be incurred by almost all the richer nations; plus the unmanageable sums of money the world financial system will be called upon to manage, can all add up to "economic and political chaos," marked by "disruptive domesti: unemployment and depression." The omnibus quotations, once again, are from Mr. Rockefeller.

The one hope for a solution—and it is a slender one—lies in the total transformation of the Mideastern scene by Dr. Henry A. Kissinger's diplomacy. But nowadays the new game of hunt-the-Secretary of State has been added to hunt-the-President.

You can argue, in fact, that Washington Watergating while the tempest approaches is worse than Nero fiddling while Rome burned.

FOREIGN STUDENTS AND JOBS

Mr. KENNEDY. Mr. President, a few weeks ago the Immigration and Naturalization Service (INS) issued an order concerning the summer employment of foreign students in this country. Apart from changing the procedure for obtaining a work permit, the apparent intent of the order was to eliminate most foreign students from the labor market. There is perhaps good reason to modify and change some of the long-standing regulations which apply to these students; but for those few students who de-

pend on summer employment, it is regrettable that the INS order came so late in the school year. Hopefully, the new regulations are being implemented with the greatest degree of compassion and decency. And because I share the concern of many over its longer term ramifications, I am also hopeful that the INS and the Department of State will actively review the new order in the broad context of our foreign relations and the traditional encouragement our Government has given to the exchange and movement of both American and foreign students.

In this connection, Mr. President, I commend to Senators an editorial in the June 12 issue of the New York Times, and ask unanimous consent that the text of the article be printed in the RECORD.

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

STUDENTS AND JOBS

An estimated 17,000 foreign students out of the 150,000 who are enrolled in American colleges face financial difficulties this summer if the United States Immigration and Naturalization Service enforces its recent order prohibiting these students from accepting temporary employment. Unless the immigration authorities are generous in their promise to make exceptions in hardship cases, some students may actually have to cut their studies short and return to their home countries if they are prevented from supplementing their funds during the vacation period.

In tightening existing work rules, the immigration authorities are responding to the current economic downturn with an effort to protect the job opportunities of disadvantaged American youths. Although the actual number of jobs involved is not really significant, officials argue that no needy American should be displaced by a foreign national when jobs are so hard to come by.

It is nevertheless an oversimplification to treat the problem as nothing but a question of job openings. The opportunity to work in an American setting can be an important and even necessary part of a foreign student's total educational experience. Rather than looking at the matter purely from the point of view of the immigration laws and the ups and downs of the economy, educational and governmental planners ought to seek new ways of simultaneously expanding employment opportunities for foreign students in the United States and for American students abroad. Such an approach could improve young people's foreign study experience without creating too unfavorable a balance of youth jobs in any country.

Simply barring foreign students from supplementing their funds by means of summer employment will have the effect of excluding the less affluent from study here, thus turning that important educational opportunity into the exclusive privilege of the rich. Until more satisfactory arrangements are worked out, the immigration authorities can help avert unnecessary hardship by enforcing the rules with a maximum of compassion and a minimum of rigidity.

REPEAL OF THE PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Mr. BENNETT. Mr. President, there recently appeared in the CONGRESSIONAL RECORD a statement encouraging the repeal of the Professional Standards Review Organization. Because of my concern about the misunderstandings and misinformation contained in the article I have prepared a letter presenting a factual description of PSRO and how it works. This letter will be sent to all Members of Congress. I ask unanimous consent that the text of the letter be printed in the RECORD.

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

DEAR CONGRESSMAN: Within the past few days you received a letter dated June 7, 1974 from Congressmen Rarick and Crane concerning the Professional Standards Review Organization section of P.L. 92-603.

In their letter they called upon you to join them as co-sponsors of legislation to repeal the PSRO provision.

As the principal sponsor of the PSRO provision in the Congress, I feel I must reply to the material which was sent to you purportedly as a "fact sheet" on PSRO's. Most unfortunately this material contained a number of significant inaccuracies and misstatements which I will address below.

Let's begin at the beginning. During our deliberations on Medicare legislation over a three-year period from 1969 to 1972, the Senate Finance Committee and the House Ways and Means Committee saw a clear need for establishing effective mechanisms to review and audit the soaring Governmental expenditures, now amounting to $25 billion, for health services under the Medicare and Medicaid programs.

As any Member of Congress will recognize, in order for us to discharge our responsibilities to the public, we must have some way to assure that public funds are being appropriately spent. Prior to PSRO, review and audit of Medicare and Medicaid expenditures was carried out by employees of the Social Security Administration, State agencies and insurance company personnel. Many doctors objected to this sort of review and we agreed with them. The PSRO amendment represents an attempt to establish a mechanism whereby local physicians themselves can review the quality and necessity of health services provided under the Medicare and Medicaid programs rather than having this review be done by clerks and bureaucrats. The doctors in an area are not required or forced to assume review responsibility. It is absolutely voluntary on their part.

Members of the Senate Finance and House Ways and Means Committees are not alone in seeing the need for and supporting effective professional review mechanisms such as PSRO. The Department of HEW strongly endorses and supports the PSRO provision of law. Drafters of most of the major National Health Insurance bills including the Administration, Senator Kennedy, Chairman Mills, Chairman Long and Senator Ribicoff, have included the PSRO provisions in their health insurance legislation.

In addition, physicians in many areas of the country have recognized PSRO for what it is—a chance for physicians to review themselves rather than being reviewed by non-physicians—and have supported the PSRO provision. State medical societies such as those in Utah, Colorado, New Mexico, Mississippi, Pennsylvania, and others, support the PSRO provisions of law. In addition, prestigious national medical specialty societies such as the American College of Surgeons, the American College of Physicians and the American Academy of Pediatrics, are supportive of the PSRO statute.

Now let me address for a moment the inaccuracies contained in the material you were sent.

1. The material said that, "The Secretary of HEW is authorized to establish "norms" of health care, which will inevitably mean standardization of medicine and a decline in quality of medical care."

In fact, the law calls for *the local physicians* to establish ranges of norms which in rare cases only may be subject to review by the National Professional Standards Review Council, composed entirely of non-governmental physicians. At no point can the Secretary in any way establish or dictate norms of medical care under PSRO. It should also be noted that these norms are guidelines only—professionally developed checkpoints beyond or below which it is reasonable for his peers to ask a physician why certain care was or was not provided.

2. The material said that, "To assist the Secretary in the development of these "norms", the employees of the 193 regional PSRO's are permitted to enter physicians' offices and inspect the private medical records of ALL patients. This is an invasion of privacy and a violation of doctor-patient confidentiality."

Actually, the amendment merely allows the local physicians where they so choose to inspect medical records of Medicare and Medicaid patients to the extent they find it necessary to review a colleague's practice. The PSRO law contains stricter penalties for breech of confidentiality than any present health insurance laws or regulations. Additionally, authority to inspect records antedates PSRO in Medicare and Medicaid. Under PSRO it would be undertaken only in unusual situations exercising professional discretion; under prior in law those same record could be reviewed by insurance company and government personnel.

3. The material says that, "These 'norms will then be used to determine the necessity of hospital admissions, length of stay, nature and number of medical tests, type of treatment and what pharmaceuticals a physician may prescribe. This is clearly cookbook medicine and medicine by averages."

Actually, the norms referred to in the legislation, as I mentioned above, are established by the local practicing physicians in an area and are used merely as points of reference or checkpoints in the review process. They do not serve as determinants of acceptable care or barriers to further care. Without any norms to review against, review becomes meaningless. The development of such norms, to be used as checkpoints, has been supported by many major national medical specialty societies. Again, all of this antedates PSRO. State agencies and insurance company agents under Medicare were applying their own—anonymously developed and applied—norms in determining whether care provided was reasonable for payment under Medicare and Medicaid.

4. The material states that, "Payment to Medicare and Medicaid patients may also be denied if the PSRO determines that medical care was not 'medically necessary' or might have been provided 'more economically.' This, in effect, amounts to the rationing of health care."

Actually, current Medicare law, along with nearly all private health insurance policies, says that only necessary medical care will be paid for. This is not rationing. Rationing is when the Government says that only certain services will be paid for. For example, two visits to the physician a month. This is exactly the kind of rationing that some State Medicaid programs have resorted to in the absence of effective review, and exactly the type of rationing PSRO is designed to eliminate.

5. The material states, "Doctors who fail to follow these norms' may be subject to a $5,000 fine, litigation, or may be forced to pay for the 'unnecessary treatment'. This is unusually harsh punishment."

Actually, the amendment contains provisions for the local physician to assess sanctions where they feel they are necessary. Obviously, if the local physicians are to effectively discharge their review responsibilities, they must have some sanctions at their disposal. Hopefully, educational efforts will correct improper practice in most cases. Repayments of anywhere from $1 to $5,000 is actually a less "harsh" penalty than the total suspension from Medicare and Medicaid participation authorized under other sections of law.

I have enclosed a copy of a pamphlet prepared by the staff of the Senate Finance Committee which will give you further background concerning the PSRO provision. It is especially important to note the large number of physician-sponsored organizations (beginning on page 12) who have already requested formal PSRO status.

I hope you will review this material carefully before making any decisions on this important matter. If I or my staff can be of any help to you, please feel free to call my office.

Sincerely,

WALLACE F. BENNETT.

A PROFESSOR'S "STREET LESSONS"

Mr. McCLELLAN. Mr. President, with the respect and gratitude due our law enforcement officers, I would like to submit for the RECORD a recent report by Dr. George L. Kirkham, an assistant professor, School of Criminology, Florida State University, Tallahassee, Fla., entitled "A Professor's 'Street Lessons'" and a synopsis of this report by William F. Buckley Jr., "Criminologist As Cop," which appeared in the June 6 issue of the Washington Star-News.

This report relates the enlightening experience of one criminologist who like many of us have stood in judgment and harshly criticized our law enforcement officers in the handling of police matters. This report expresses the one-sided basis of such judgment. It details not only the burdensome and demanding task facing policemen performing their duty, but also the unmerited discredit and disrespect that is all too common these days.

May I reiterate from a statement that I formally made on the floor of the Senate that it is not always pleasant to be a police officer in our troubled society and that the physical risk of being a police officer is high. Dr. Kirkham's report expresses one individual's conscious realization of this fact acquired by stepping into the policeman's shoes for a short time.

Mr. President, no one can read these articles without feeling a deeper sense of appreciation for those men who dedicate themselves to law enforcement. I hope every individual in this country will read them.

Mr. President, I ask unanimous consent that Dr. Kirkham's article and Mr. Buckley's new synopsis be printed in the RECORD.

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

[Reprinted from the FBI Law Enforcement Bulletin, March 1974]

A PROFESSOR'S "STREET LESSONS"

(By Dr. George L. Kirkham)

As policemen have come under increasing criticism by various individuals and groups in our society in recent years, I cannot help but wonder how many times they have clenched their teeth and wished they could expose their critics to only a few of the harsh realities which their job involves.

Persons such as myself, members of the academic community, have traditionally been quick to find fault with the police. From isolated incidents reported by the various news media, we have fashioned for ourselves a stereotyped image of the police officer which conveniently conforms to our notions of what he is. We see the brutal cop, the racist cop, the grafting cop, the discourteous cop. What we do not see, however, is the image of thousands of dedicated men and women struggling against almost impossible odds to preserve our society and everything in it which we cherish.

For some years, first as a student and later as a professor of criminology, I found myself troubled by the fact that most of us who write books and articles on the police have never been policemen ourselves. I began to be bothered increasingly by many of my students who were former policemen. Time and again, they would respond to my frequently critical lectures on the police with the argument that I could not possibly understand what a police officer has to endure in modern society until I had been one myself. Under the weight of this frustration, and my personal conviction that knowledge has an applied as well as a theoretical dimension, I decided to take up this challenge: I would become a policeman myself as a means of establishing once and for all the accuracy of what I and other criminologists had been saying about the police for so long.

FROM PROFESSOR TO COP

Suffice it to say that my announced intention to become a uniformed patrolman was at first met with fairly widespread disbelief on the part of family, friends, and colleagues alike. At 31, with a family and an established career as a criminologist, I was surely an unlikely candidate for the position of police recruit. The very idea, it was suggested to me, was outrageous and absurd. I was told that no police administrator in his right mind would allow a representative of the academic world to enter his organization. It had never been done and could not be done.

Fortunately, many of my students, who either had been policemen or were at the time, sounded a far more optimistic and enthusiastic note. Police administrators and officers alike, they said, would welcome the opportunity to expose members of the academic community to the problems of their occupation. If one of us were really willing to see and feel the policeman's world from behind a badge and blue uniform, instead of from the safe and comfortable vantage point of a classroom or university office, police officers themselves would do everything in their power to make the opportunity available. Despite these assurances from my policemen-students, I remained skeptical over my chances of being allowed to do such an unorthodox thing.

This skepticism was, however, soon to be overcome. One of my better criminology students at the time was a young police officer on educational leave from the Jacksonville, Fla., Sheriff's Office. Upon learning of my desire to become a police officer in order to better understand the problems of policemen, he urged me to contact Sheriff Dale Carson and Undersheriff D. K. Brown of his department with my proposal. I had earlier heard other police officers describe the consolidated 800-man force of Jacksonville-Duval County as one of the most progressive departments in the country. I learned that Sheriff Carson and Undersheriff Brown, two former FBI Agents, had won considerable respect in the law enforcement profession as enlightened and innovative administrators.

The size and composition of Jacksonville, as well as its nearness to my university and home, made it appear to be an ideal location for what I wished to do. Numbering just over one-half million residents, Jacksonville impressed me as being the kind of large and rapidly growing American city which inevitably experiences the major social problems of our time: crime and delinquency, racial unrest, poverty, and mental illness. A seaport and industrial center, Jacksonville offered a diversity of urban, suburban, and even rural populations in its vast land area. I took particular note of the fact that it contained a fairly typical inner-city slum section and black ghetto, both of which were in the process of being transformed through a massive program of urban redevelopment. This latter feature was especially important to me insofar as I wanted to personally experience the stresses and strains of today's city policeman. It was, after all, he who had traditionally been the subject of such intense interest and criticism on the part of social scientists such as myself.

Much to my surprise, both Sheriff Carson and Undersheriff Brown were not only supportive but enthusiastic as well over my proposal to become a city patrolman. I made it clear to them at the outset that I did not wish to function as an observer or reserve officer, but rather wanted to become a fully sworn and full-time member of their department for a period of between 4 and 6 months. I further stated that I hoped to spend most of this period working as a uniformed patrolman in those inner city beats most characterized by violence, poverty, social unrest, and high crime rates. They agreed to this, with the understanding that I would first have to meet the same requirements as any other police candidate. I would, for example, have to submit to a thorough character investigation, a physical examination, and would have to meet the same training standards applied to all other Florida police officers. Since I was to be unpaid, I would be exempted from departmental civil service requirements.

RESTYLING AN IMAGE

Both Carson and Brown set about overcoming various administrative and insurance problems which had to be dealt with in advance of my becoming a police officer. Suppose, for example, I should be injured or killed in the line of duty, or should injure or kill someone else. What of the department and city's liability? These and other issues were gradually resolved with considerable effort on their part. The only stipulation set forth by both administrators was one with which I strongly agreed: for the sake of morale and confidence in the department, every officer must know in advance exactly who I was and what I was doing. Other than being in the unusual position of a "patrolman-professor," I would be indistinguishable from other officers in every respect, from the standard issue .38 Smith and Wesson revolver I would carry to the badge and uniform I would wear.

The biggest and final obstacle which I faced was the necessity that I comply fully with a 1967 Florida Police Standards law,

which requires that every police officer and deputy sheriff in the State complete a minimum of 280 hours of law enforcement training prior to being sworn in and assigned to regular duty. Since I had a full-time university job nearly 200 miles from Jacksonville, this meant that I would be unable to attend the regular sheriff's academy. I would have to attend a certified academy in my own area, something which I arranged to do with Sheriff Carson's sponsorship.

For 4 months, 4 hours each evening and 5 nights a week, I attended the Tallahassee area police academy, along with 35 younger classmates. As a balding intellectual, I at first stood out as an oddity in the class of young men destined to become local law enforcement officers. With the passage of time, however, they came to accept me and I them. We joked, drank coffee, and struggled through various examinations and lessons together. At first known only as "the professor," the men later nicknamed me "Doc" over my good-natured protests.

As the days stretched into weeks and the weeks into months, I took lengthy notes on the interviewing of witnesses at crime scenes, investigated imaginary traffic accidents, and lifted fingerprints. Some nights I went home after hours of physical defense training with my uniformly younger and stronger peers with tired muscles, bruises, and the feeling that I should have my head examined for undertaking such a rugged project.

As someone who had never fired a handgun, I quickly grew accustomed to the noise of 35 revolvers firing at the cardboard silhouettes which our minds transformed into real assailants at the sound of the range whistle. I learned how to properly make car stops, approach a front door or darkened building, question suspects, and a thousand other things that every modern police officer must know. After what seemed an eternity, graduation from the academy finally came, and with it what was to become the most difficult but rewarding educational experience of my life: I became a policeman.

THE SCHOOL OF HARD KNOCKS

I will never forget standing in front of the Jacksonville police station on that first day. I felt incredibly awkward and conspicuous in the new blue uniform and creaking leather. Whatever confidence in my ability to "do the job" I had gained during the academy seemed to evaporate as I stood there watching other blue figures hurrying in the evening rain toward assembly. After some minutes I summoned the courage to walk into the station and into my new career as a core city patrolman.

That first day seems long ago now. As I write this, I have completed over 100 tours of duty as a patrolman. Although still a rookie officer, so much has happened in the short space of 6 months that I will never again be either the same man or the same scientist who stood in front of the station on that first day. While it is hard to even begin to describe within a brief article the many changes which have occurred within me during this time, I would like to share with fellow policemen and colleagues in the academic community a few of what I regard as the more important of what I will call my "street lessons."

I had always personally been of the opinion that police officers greatly exaggerate the amount of verbal disrespect and physical abuse to which they are subjected in the line of duty. During my first few hours as a street officer, I lived blissfully in a magic bubble which was soon to burst. As a college professor, I had grown accustomed to being treated with uniform respect and deference by those I encountered. I somehow naively assumed that this same quality of respect would carry over into my new role as a policeman. I was, after all, a representative of the law, identifiable to all by the badge and uniform I wore as someone dedicated to the protection of society. Surely that fact would entitle me to a measure of respect and cooperation—or so I thought. I quickly found that my badge and uniform, rather than serving to shield me from such things as disrespect and violence, only acted as a magnet which drew me toward many individuals who hated what I represented.

I had discounted on my first evening the warning of a veteran sergeant who, after hearing that I was about to begin work as a patrolman, shook his head and cautioned, "You'd better watch yourself out there, Professor! It gets pretty rough sometimes!" I was soon to find out what he meant.

Several hours into my first evening on the streets, my partner and I were dispatched to a bar in the downtown area to handle a disturbance complaint. Inside, we encountered a large and boisterous drunk who was arguing with the bartender and loudly refusing to leave. As someone with considerable experience as a correctional counselor and mental health worker, I hastened to take charge of the situation. "Excuse me, Sir," I smiled pleasantly at the drunk, "but I wonder if I could ask you to step outside and talk with me for just a minute?" The man stared at me through bloodshot eyes in disbelief for a second, raising one hand to scratch the stubble of several days growth of beard. Then suddenly, without warning, it happened. He swung at me, luckily missing my face and striking me on the right shoulder. I couldn't believe it. What on earth had I done to provoke such a reaction? Before I could recover from my startled condition, he swung again—this time tearing my whistle chain from a shoulder epaulet. After a brief struggle, we had the still shouting, cursing man locked in the back of our cruiser. I stood there, breathing heavily with my hair in my eyes as I surveyed the damage to my new uniform and looked in bewilderment at my partner, who only smiled and clapped me affectionately on the back.

THEORY VERSUS PRACTICE

"Something is very wrong," I remember thinking to myself in the front seat as we headed for the jail. I had used the same kind of gentle, rapport-building approach with countless offenders in prison and probation settings. It had always worked so well there. What was so different about being a policeman? In the days and weeks which followed, I was to learn the answer to this question the hard way. As a university professor, I had always sought to convey to students the idea that it is a mistake to exercise authority, to make decisions for other people, or rely upon orders and commands to accomplish something. As a police officer myself, I was forced time and again to do just that. For the first time in my life, I encountered individuals who interpreted kindness as weakness, as an invitation to disrespect or violence. I encountered men, women, and children who, in fear, desperation, or excitement, looked to the person behind my blue uniform and shield for guidance, control, and direction. As someone who had always condemned the exercise of authority, the acceptance of myself as an avoidable symbol of authority came as a bitter lesson.

I found that there was a world of difference between encountering individuals, as I had, in mental health or correctional settings and facing them as the patrolman must: when they are violent, hysterical, desperate. When I put the uniform of a police officer on, I lost the luxury of sitting in an air-conditioned office with my pipe and books, calmly discussing with a rapist or armed robber the past problems which had led him into trouble with the law. Such offenders had seemed so innocent, so harmless in the sterile setting of prison. The often terrible crimes which they had committed were long since past, reduced like their victims to so many printed words on a page.

Now, as a police officer, I began to encounter the offender for the first time as a very real menace to my personal safety and the security of our society. The felon was no longer a harmless figure sitting in blue denims across my prison desk, a "victim" of society to be treated with compassion and leniency. He became an armed robber fleeing from the scene of a crime, a crazed maniac threatening his family with a gun, someone who might become my killer crouched behind the wheel of a car on a dark street.

LESSON IN FEAR

Like crime itself, fear quickly ceased to be an impersonal and abstract thing. It became something which I regularly experienced. It was a tightness in my stomach as I approached a warehouse where something had tripped a silent alarm. I could taste it as a dryness in my mouth as we raced with blue lights and siren toward the site of a "Signal Zero" (armed and dangerous) call. For the first time in my life, I came to know—as every policeman knows—the true meaning of fear. Through shift after shift it stalked me, making my palms cold and sweaty, and pushing the adrenalin through my veins.

I recall particularly a dramatic lesson in the meaning of fear which took place shortly after I joined the force. My partner and I were on routine patrol one Saturday evening in a deteriorated area of cheap bars and pool halls when we observed a young male double-parked in the middle of the street. I pulled alongside and asked him in a civil manner to either park or drive on, whereupon he began loudly cursing us and shouting that we couldn't make him go anywhere. An angry crowd began to gather as we got out of our patrol car and approached the man, who was by this time shouting that we were harrassing him and calling to bystanders for assistance. As a criminology professor, some months earlier I would have urged that the police officer who was now myself simply leave the car double-parked and move on rather than risk an incident. As a policeman, however, I had come to realize that an officer can never back down from his responsibility to enforce the law. Whatever the risk to himself, every police officer understands that his ability to back up the lawful authority which he represents is the only thing which stands between civilization and the jungle of lawlessness.

The man continued to curse us and adamantly refused to move his car. As we placed him under arrest and attempted to move him to our cruiser, an unidentified male and female rushed from the crowd which was steadily enlarging and sought to free him. In the ensuing struggle, a hysterical female unsnapped and tried to grab my service revolver, and the now angry mob began to converge on us. Suddenly, I was no longer an "ivory-tower" scholar watching typical police "overreaction" to a street incident—but I was part of it and fighting to remain alive and uninjured. I remember the sickening sensation of cold terror which filled my insides as I struggled to reach our car radio. I simultaneously put out a distress call and pressed the hidden electric release button on our shotgun rack as my partner sought to maintain his grip on the prisoner and hold the crowd at bay with his revolver.

How harshly I would have judged the officer who now grabbed the shotgun only a

few months before. I rounded the rear of our cruiser with the weapon and shouted at the mob to move back. The memory flashed through my mind that I had always argued that policemen should not be allowed to carry shotguns because of their "offensive" character and the potential damage to community relations as a result of their display. How readily as a criminology professor I would have condemned the officer who was now myself, trembling with fear and anxiety and menacing an "unarmed" assembly with an "offensive" weapon. But circumstances had dramatically changed my perspective, for now it was *my* life and safety that were in danger, *my* wife and child who might be mourning. Not "a policeman" or Patrolman Smith—but *me*, George Kirkham! I felt accordingly bitter when I saw the individual who had provoked this near riot back on the streets the next night, laughing as though our charge of "resisting arrest with violence" was a big joke. Like my partner, I found myself feeling angry and frustrated shortly afterward when this same individual was allowed to plead guilty to a reduced charge of "breach of peace."

LOUD DEFENDANTS AND SILENT VICTIMS

As someone who had always been greatly concerned about the rights of offenders, I now began to consider for the first time the rights of police officers. As a police officer, I felt that my efforts to protect society and maintain my personal safety were menaced by many of the very court decisions and lenient parole board actions I had always been eager to defend. An educated man, I could not answer the questions of my fellow officers as to why those who kill and maim policemen, men who are involved in no less honorable an activity than holding our society together, should so often be subjected to minor penalties. I grew weary of carefully following difficult legal restrictions, while thugs and hoodlums consistently twisted the law to their own advantage. I remember standing in the street one evening and reading a heroin "pusher" his rights, only to have him convulse with laughter halfway through and finish reciting them, word for word, from memory. He had been given his "rights" under the law, but what about the rights of those who were the victims of people like himself? For the first time, questions such as these began to bother me.

As a corrections worker and someone raised in a comfortable middle class home, I had always been insulated from the kind of human misery and tragedy which become part of the policeman's everyday life. Now, the often terrible sights, sounds, and smells of my job began to haunt me hours after I had taken the blue uniform and badge off. Some nights I would lie in bed unable to sleep, trying desperately to forget the things I had seen during a particular tour of duty: the rat-infested shacks that served as homes to those far less fortunate than I, a teenage boy dying in my arms after being struck by a car, small children clad in rags with stomachs bloated from hunger playing in a urine-spattered hall, the victim of a robbery senselessly beaten and murdered.

In my new role as a police officer, I found that the victims of crime ceased to be impersonal statistics. As a corrections worker and criminology professor, I had never given much thought to those who are victimized by criminals in our society. Now the sight of so many lives ruthlessly damaged and destroyed by the perpetrators of crime left me preoccupied with the question of society's responsibility to protect the men, women, and children who are victimized daily.

For all the tragic victims of crime I have seen during the past 6 months, one case stands out above all. There was an elderly man who lived with his dog in my apartment building downtown. He was a retired bus driver and his wife was long deceased. As time went by, I became friends with the old man and his dog. I could usually count on finding both of them standing at the corner on my way to work. I would engage in casual conversation with the old man, and sometimes he and his dog would walk several blocks toward the station with me. They were both as predictable as a clock: each evening around 7, the old man would walk to the same small restaurant several blocks away, where he would eat his evening meal while the dog waited dutifully outside.

One evening my partner and I received a call to a street shooting near my apartment building. My heart sank as we pulled up and I saw the old man's mutt in a crowd of people gathered on the sidewalk. The old man was lying on his back, in a large pool of blood, half trying to brace himself on an elbow. He clutched a bullet wound in his chest and gasped to me that three young men had stopped him and demanded his money. After taking his wallet and seeing how little he had, they shot him and left him on the street. As a police officer, I was enraged time and again at the cruelty and senselessness of acts such as this, at the arrogance of brazen thugs who prey with impunity on innocent citizens.

A DIFFERENT PERSPECTIVE

The same kinds of daily stresses which affected my fellow officers soon began to take their toll on me. I became sick and tired of being reviled and attacked by criminals who could usually find a most sympathetic audience in judges and jurors eager to understand their side of things and provide them with "another chance." I grew tired of living under the ax of news media and community pressure groups, eager to seize upon the slightest mistake made by myself or a fellow police officer.

As a criminology professor, I had always enjoyed the luxury of having great amounts of time in which to make difficult decisions. As a police officer, however, I found myself forced to make the most critical choices in a time frame of seconds, rather than days: to shoot or not to shoot, to arrest or not to arrest, to give chase or let go—always with the nagging certainty that others, those with great amounts of time in which to analyze and think, stood ready to judge and condemn me for whatever action I might take or fail to take. I found myself not only forced to live a life consisting of seconds and adrenalin, but also forced to deal with human problems which were infinitely more difficult than anything I had ever confronted in a correctional or mental health setting. Family fights, mental illness, potentially explosive crowd situations, dangerous individuals—I found myself progressively awed by the complexity of tasks faced by men whose work I once thought was fairly simple and straightforward.

Indeed, I would like to take the average clinical psychologist or psychiatrist and invite him to function for just a day in the world of the policeman, to confront people whose problems are both serious and in need of immediate solution. I would invite him to walk, as I have, into a smoke-filled pool room where five or six angry men are swinging cues at one another. I would like the prison counselor and parole officer to see their client Jones—not calm and composed in an office setting, but as the street cop sees him—beating his small child with a heavy belt buckle, or kicking his pregnant wife. I wish that they, and every judge and juror in our country, could see the ravages of crime as the cop on the beat must: innocent people cut, shot, beaten, raped, robbed, and murdered. It would, I feel certain, give them a different perspective on crime and criminals, just as it has me.

HUMANENESS IN UNIFORM

For all the human misery and suffering which police officers must witness in their work, I found myself amazed at the incredible humanity and compassion which seems to characterize most of them. My own stereotypes of the brutal, sadistic cop were time and again shattered by the sight of humanitarian kindness on the part of the thin blue line: a young patrolman giving mouth to mouth resuscitation to a filthy derelict; a grizzled old veteran embarrassed when I discovered the bags of jelly beans which he carried in the trunk of his car for impoverished ghetto kids—to whom he was the closest thing to an Easter Bunny they would ever know; an officer giving money out of his own pocket to a hungry and stranded family he would probably never see again; and another patrolman taking the trouble to drop by on his own time in order to give worried parents information about their problem son or daughter.

As a police officer, I found myself repeatedly surprised at the ability of my fellow patrolmen to withstand the often enormous daily pressures of their work. Long hours, frustration, danger, and anxiety—all seemed to be taken in stride as just part of the reality of being a cop. I went eventually through the humbling discovery that I, like the men in blue with whom I worked, was simply a human being with definite limits to the amount of stress I could endure in a given period of time.

I recall in particular one evening when this point was dramatized to me. It had been a long, hard shift—one which ended with a high-speed chase of a stolen car in which we narrowly escaped serious injury when another vehicle pulled in front of our patrol car. As we checked off duty, I was vaguely aware of feeling tired and tense. My partner and I were headed for a restaurant and a bite of breakfast when we both heard the unmistakable sound of breaking glass coming from a church and spotted two long-haired teenage boys running from the area. We confronted them and I asked one for identification, displaying my own police identification. He sneered at me, cursed, and turned to walk away. The next thing I knew I had grabbed the youth by his shirt and spun him around, shouting, "I'm talking to you, punk!" I felt my partner's arm on my shoulder and heard his reassuring voice behind me, "Take it easy, Doc!" I released my grip on the adolescent and stood silently for several seconds, unable to accept the inescapable reality that I had "lost my cool." My mind flashed back to a lecture during which I had told my students, "Any man who is not able to maintain absolute control of his emotions at all times has no business being a police officer." I was at the time of this incident director of a human relations project designed to teach policemen "emotional control" skills. Now here I was, an "emotional control" expert, being told to calm down by a patrolman!

A COMPLEX CHALLENGE

As someone who had always regarded policemen as a "paranoid" lot, I discovered in the daily round of violence which became part of my life that chronic suspiciousness is something that a good cop cultivates in the interest of going home to his family each evening. Like so many other officers, my daily exposure to street crime soon had me carrying an off-duty weapon virtually everywhere I went. I began to become watchful of who and what was around me, as things began to acquire a new meaning: an open door, someone loitering on a dark corner, a rear license plate covered with dirt. My personality began to change slowly according to

my family, friends, and colleagues as my career as a policeman progressed. Once quick to drop critical barbs about policemen to intellectual friends, I now became extremely sensitive about such remarks—and several times became engaged in heated arguments over them.

As a police officer myself, I found that society demands too much of its policemen: not only are they expected to enforce the law, but to be curbside psychiatrists, marriage counselors, social workers, and even ministers, and doctors. I found that a good street officer combines in his daily work splinters of each of these complex professions and many more. Certainly it is unreasonable for us to ask so much of the men in blue; yet we must, for there is simply no one else to whom we can turn for help in the kind of crises and problems policemen deal with. No one else wants to counsel a family with problems at 3 a.m. on Sunday; no one else wants to enter a darkened building after a burglary; no one else wants to confront a robber or madman with a gun. No one else wants to stare poverty, mental illness, and human tragedy in the face day after day, to pick up the pieces of shattered lives.

As a policeman myself, I have often asked myself the questions: "Why does a man become a cop?" "What makes him stay with it?" Surely it's not the disrespect, the legal restrictions which make the job increasingly rough, the long hours and low pay, or the risk of being killed or injured trying to protect people who often don't seem to care.

The only answer to this question I have been able to arrive at is one based on my own limited experience as a policeman. Night after night, I came home and took off the badge and blue uniform with a sense of satisfaction and contribution to society that I have never known in any other job. Somehow that feeling seemed to make everything—the disrespect, the danger, the boredom—worthwhile.

AN INVALUABLE EDUCATION

For too long now, we in America's colleges and universities have conveyed to young men and women the subtle message that there is somehow something wrong with "being a cop." It's time for that to stop. This point was forcibly brought home to me one evening not long ago. I had just completed a day shift and had to rush back to the university with no chance to change out of uniform for a late afternoon class. As I rushed into my office to pick up my lecture notes, my secretary's jaw dropped at the sight of the uniform. "Why, Dr. Kirkham, you're not going to go to class looking like *that*, are you?" I felt momentarily embarrassed, and then struck by the realization that I would not feel the need to apologize if I appeared before my students with long hair or a beard. Free love advocates and hatemonger revolutionaries do not apologize for their group memberships, so why should someone whose appearance symbolizes a commitment to serve and protect society? "Why not," I replied with a slight smile, "I'm proud to be a cop!" I picked up my notes and went on to class.

Let me conclude this article by saying that I would hope that other educators might take the trouble to observe firsthand some of the policeman's problems before being so quick to condemn and pass judgment on the thin blue line. We are all familiar with the old expression which urges us to refrain from judging the worth of another man's actions until we have walked at least a mile in his shoes. To be sure, I have not walked that mile as a rookie patrolman with barely 6 months' experience. But I have at least tried the shoes on and taken a few difficult steps in them. Those few steps have given me a profoundly new understanding and appreciation of our police, and have left me with the humbling realization that possession of a Ph. D. does not give a man a corner on knowledge, or place him in the lofty position where he cannot take lessons from those less educated than himself.

[From the Washington Star-News, June 6, 1974]

CRIMINOLOGIST AS COP

(By William F. Buckley, Jr.)

Hugo Park of the Atlanta Journal has the good sense to read the FBI Law Enforcement Bulletin, where recently he saw an account of the extraordinary experiences of one George L. Kirkman, assistant professor of criminology at Florida State University, from which account I put together the following . . .

Dr. Kirkman apparently decided that as a professor of criminology, he lacked something, namely police experience. Accordingly he took time off and attended the police academy. Having done so, he was assigned the regular work of a patrolman. By his own account, he will not be the same again.

"I had personally been of the opinion" writes Dr. Kirkham, "that police officers greatly exaggerate the amount of verbal disrespect and physical abuse to which they are subjected in the line of duty." Well, the police do not tend to exaggerate, Dr. Kirkham discovered.

Notwithstanding that he approached his—clients? patients?—with exaggerated civility, he was seldom repaid in kind. "Excuse me, sir," he said to a barroom brawler, "but I wonder if I could ask you to step outside and talk with me for a minute?" That was very nearly the end of Dr. George L. Kirkham, whom the brawler turned on intending mayhem.

Soon after his tour of duty began, he told someone double-parked in a crowded thoroughfare to move his car. He refused. So our hero told him he was under arrest. Whereupon the double-parker raised a Saturday night crowd by shouting and yelling that the police were harassing him.

"A hysterical woman unsnapped and tried to grab Kirkham's revolver and an angry mob converged on the two officers," Park writes. "Fearing for his life, Kirkham pressed the hidden release button on the shotgun rack."

Meditating on the incident, Kirkham later wrote, "How readily as a criminology professor I would have condemned the officer who was now myself (for) menacing an 'unarmed' assembly with an 'offensive' weapon." A complaint was filed against the double-parker who very nearly caused a riot. "I felt bitter when I saw this individual . . . back on the streets the next night, laughing.

Dr. Kirkham discovered something we all know in the abstract, but take little into account. "As a criminology professor, I had always enjoyed great amounts of time in which to make difficult decisions. As a police officer, however, I found myself forced to make the most critical choices in the time frame of seconds rather than days; to shoot or not to shoot, to arrest or not to arrest to give chase or let go—always with the nagging certainty that others, those with great amounts of time in which to analyze and think, stood ready to judge and condemn me for whatever action I might take or fail to take."

Dr. Kirkham has the grace to recall one of his standard lectures back at Florida State U. It goes, "Any man who is not able to maintain absolute control of his emotions at all times has no business being a police officer."

He is a wiser man, and wishes others who lecture on criminology would share his experience.

"Wher I put the uniform of the police officer on, I lost the luxury of sitting in an air conditioned office with my pipe and books, calmly discussing with a rapist or armed robber the past problems which had led him into trouble with the law. Such offenders had seemed so harmless in the sterile setting of prison. The often terrible crimes which they had committed were long since past, reduced like their victims to so many printed words on a page."

It is curious that everyone in America who practices the profession of instructing everyone else on the subject of ghetto life advises us all that we should cross the tracks and see what conditions there are really like, which is good advice.

It is often that comparable advice is given to those whose knowledge of crime is circumscribed by poetic admiration for the decisions of the Warren Court. Dr. Kirkham may have discovered that he has choleric weaknesses, but he is an honor to his profession.

THE REPORT OF THE GROUP OF EMINENT PERSONS TO STUDY THE IMPACT OF MULTINATIONAL CORPORATIONS ON DEVELOPMENT AND INTERNATIONAL RELATIONS

Mr. JAVITS. Mr. President, during the past year I have been privileged to serve as 1 of 20 members on a United Nations panel studying multinational corporations. On Friday, June 7, the Economic and Social Council of the United Nations issued the result of our work entitled "The Report of the Group of Eminent Persons To Study the Impact of Multinational Corporations on Development and International Relations." The members of the group represent a distinguished cross-section of world leaders in business, government, and academia, with representatives from both developed and developing countries. The other U.S. participant, J. Irwin Miller, chairman of the Board of Cummins Engine Co., Inc., rendered a distinguished and extremely valuable service to the group.

The report was issued in three parts: part I consisted of the general report on the role of multinational corporations in developing countries; part II contains more specific discussion on such issues as ownership, financial flows, technology, transfer pricing, employment, consumer protection, competition and market structure, and information disclosure, and part III contains the comments of individual members of the group who wished either to disagree or to expand on the first two parts of the report.

The group held three sessions—in New York in September 1973, Geneva, Switzerland, in November 1973, and in New York in March 1974. Although my Senate activities prevented me from attending all of the sessions I would have wished to have attended, I attended the key sessions and followed all the proceedings very closely through my staff. In order to contribute to the debate on the subject, and to present my own views on multinational corporations, and their role in the development process, I wrote considered news on the U.N. report which were incorporated in part III of the report.

Because I regard this as an extremely important subject which should have the

widest possible public discussion, I would like to share with my colleagues my comments on the report. I ask unanimous consent that my remarks be printed in the RECORD.

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

COMMENTS ON U.N. MNC REPORT BY SENATOR JACOB K. JAVITS

The Report of the Group of Eminent Persons represents a great effort by talented and diverse individuals, who bring to this Report substantially different perspectives on the role of MNCs in world development. In such a group it would be utterly unrealistic to expect unanimity of views or overwhelming agreement on the Report produced.

The Report seeks to limit the scope of disagreement by expressing several viewpoints, even if these may be somewhat contradictory, while it also attempts to strike a balance among the views expressed. This format, however, permits the expression of fears voiced by various groups about the adverse effects of MNCs without thoroughly examining the charges and assumptions to determine whether there is substance to the fears. Hence, the Report proliferates the initial error by skipping from the expression of a particular fear, based upon various hypothetical situations, to proposing a recommendation—but without an adequate factual basis. Thus, I find that the Report contains a significant number of recommendations from which I must dissent.

My other fundamental reservations regarding the Report are caused by its high level of generalization—unsupported in numerous cases, as I have said, by documentation or even argumentation, its bias in favor of governmental as opposed to private decision-making, its lack of a clear definition of the problems resulting from MNC investment, and its inability to set out a reasonable list of priorities for action to be taken to deal with them.

The major priority recommendation of the Report is to provide a continuing role for the United Nations through a Commission on Multinational Corporations and an Information and Research Center under ECOSOC auspices. I am in full agreement with this recommendation of the Group. It is important that this new United Nations effort be conducted in harmony with the work on the MNCs also being carried on by the OECD, the World Bank, the EEC and others and will give consideration to parallel national inquiries like those of the U.S. Congress.

The Report assumes that the central problem is a conflict between the economic power of the MNCs and the political power of the host governments and sets out various concerns expressed about MNCs by various groups, without any attempt to assess their validity. Nevertheless, from these generalizations the Report concludes on I–3:

"Fundamental new problems have arisen as a direct result of the growing internationalization of production as carried out by MNCs. We believe these problems must be tackled without delay."

This type of easy conclusion could undermine the authority of all of the Group's recommendations.

Because the Report sees the central problem as one of conflict between the economic power of MNCs and the political sovereignty of nations, the fundamental solution advocated by the Report is to increase the bargaining power of host countries. Furthermore, the two implicit assumptions of the Report are that governmental involvement is preferable to private initiative, and that governments know best and will act always in the long run in the interest of their citizens. Based on long experience, I seriously question both assumptions.

Although witnesses before the Group clearly testified that there is no direct equivalence between the power of an MNC and the power of a sovereign state, the Report nevertheless proceeds to devise various ways by which host countries can strengthen their bargaining position, or power, against MNCs. However, since many of the recommendations are concerned with exercising greater political control over MNCs without taking sufficient account of the economic realities—for example, why MNCs choose to invest in LDCs—the result is likely to be a suffocating surveillance of MNC activities by the host country government and discrimination against MNCs compared with indigenous private enterprise. Excessive regulation and control will actively discourage MNC investment, and therefore deprive LDCs of capital and technology, which for all practical purposes, may well be unavailable in adequate amounts except from MNCs. This is clearly in the interest of neither the MNCs nor the developing countries.

Nor am I convinced that there need be any conflict of interest between MNCs and host countries. Private foreign investment plays a crucial role, along with public aid flows, both bilateral and multilateral, in providing critically important inputs to developing countries, and both are needed.

MNCs as a group have played more of a major role in creating a more prosperous world economy, to the benefit of all nations, and therefore have been more of a major force for progress and peace than is generally recognized. This need not and does not beg their deficiencies or the political machinations of some MNCs.

Indeed, Arnold Toynbee finds multinational corporations have a major historical role to play in an increasingly interdependent world; in fact, he asserts that most of our global economic problems "are due to the misfit between the antiquated political setup of local states and the real, global economic setup."[1]

Also many corporate MNC leaders have shown an interest in cooperating with the UN and other international agencies studying the MNC. But it is essential that the rules of the game be clearly stated; nothing discourages private investment more readily than frequent changes in government policy and consequent uncertainty regarding the policy to be expected. A large number of MNC executives testified before the Group, and many of the suggestions they made have found their way into the Report. However, since MNCs exist as profit making enterprises, governments cannot continually diminish their profit making capacity and expect them to continue to invest in these circumstances. The important point is to be sure that it is in the public interest of the host countries to have MNC investment, while allowing sufficient profits to make their continued existence worthwhile.

I deplore as strongly as the other members of the Group political interference by MNCs, i.e. ITT's attempts to interfere in the internal affairs of Chile. Probably other MNCs have engaged in similar abuses, which must also be condemned and their repetition prevented. However, the Report as a whole represents a reaction to highly atypical behavior by a few MNCs, and glosses over entirely a number of examples of serious abuses of MNCs by developing country governments such as vindictive nationalization, arbitrary and capricious rule making and procedure, abrogation of contracts and other discriminatory treatment (as against indigenous enterprise). The Report would have been far more valuable had it achieved such a degree of balance, and had it sought to bring about a harmonization of interests between MNCs and developing countries.

Raymond Vernon of Harvard University has stated a view of MNCs which I find revealing and lucid:

"It is not the chosen instrument in an international conspiracy for grinding the faces of the poor; neither is it mankind's salvation in a parlous world of hostile nation states.

"It is one more human institution, at the same time fallible and useful, whose benefits can be increased and drawbacks reduced by appropriate public policies."[2]

It is in the long term interest of developing countries to welcome foreign private investment that will provide infusion of capital and technology on terms suitable for the host country and that will accomodate indigenous aspirations for participation in management and ownership. It is possible to devise policies that will establish a harmonious relationship between private foreign capital and internal development needs. A number of countries have succeeded in developing such policies, and more effort should have been expanded in identifying these policies. It would be regrettable in a world of decreasing aid and sharply increasing oil and other resources prices to shut off flows of private capital in the guise of regulating MNCs.

There follows a more detailed analysis of the Report, with my comments on the individual chapters.

Although I am not necessarily in total agreement with all parts of the Report not mentioned specifically below, I have limited my comments to the more important points.

Finally, I am conscious of the genuine efforts of the Group to reach a unanimous Report, and to accommodate all the various opinions expressed. Because of the complexity of the subject and the differing perceptions of persons comprising the Group, it has not been possible to reach a unanimous Report.

Therefore, while the Report is deficient in the respects stated below, I have joined the other members of the Group in submitting it to the Secretary General. I do this in the expectation that deficiencies in the Report will tend to come under review in the further work of the UN on MNCs and that the publication of the Report will develop public discussion of the subject in a way that will be further self correcting.

CHAPTER II—IMPACT ON DEVELOPMENT

1. On Page 10 the Report recommends that host countries give precise instructions to MNCs regarding the conditions under which they should operate and what they should achieve. Although the objective sought—maximum understanding between the developing country government and the MNC on the conditions of investment and operation—is clearly worthwhile and to be encouraged, it may be both impractical and even counterproductive to give precise instructions on every aspect of MNC operation. Certainly, it is entirely appropriate for the developing country government to establish general guidelines for the MNC to follow, and to work out a mutually agreed set of guidelines for the more detailed aspects of the MNC's operations.

2. On Page 11 the second recommendation is somewhat unclear regarding the role of the United Nations in assisting the host country governments in negotiations with MNCs. The recommendation states:

"That the United Nations should strengthen the capacity to assist host countries, at their request, in such negotiations with MNCs, as well as to train their personnel in the conduct of such negotiations (see Chapter IV)."

[1] Arnold Toynbee: Are Businessmen Creating a New Pax Romana?" *Forbes*, April 15, 1974, p. 68.

[2] Vernon, Raymond. "Multinational Enterprices: Performance and Accountability," (Unpublished paper), November 1973, p. 14.

The United Nations should not be a party to adversary negotiations between a host government and an MNC; such a role is highly inappropriate, and also unrealistic, considering the wide spectrum of expertise that would be required.

3. The recommendation at the top of Page 12 suggests that—

"In the initial agreement with MNC's, host countries should consider making provision for the review, at the request of either side, after suitable intervals, of various clauses of the agreement."

The recommendation would have been improved by the addition of the ten year period, mentioned at the bottom of Page 11. This would ensure that the host country would not ask for re-negotiation after a very short period of time.

4. The second recommendation on Page 12 is acceptable in principle. It states:

"That developing countries should consider including provisions in their initial agreement with MNCs which permit the possibility of a reduction over time of the percentage of foreign ownership; the terms, as far as possible, should also be agreed upon at the very beginning in order to minimize the possibilities of future conflict and controversy."

Developing country governments and citizens are certainly entitled to participation in the ownership and thus the profits made by MNCs in their countries. However, it should be recognized that a requirement *ab initio* for phased disinvestment can work to discourage many investments, particularly in high technology areas. Such stringent initial terms might encourage MNCs to attempt to amortize all their investment during the early years of the investment, resulting in higher prices and more wasteful development of resources.

5. I object to the poor logic represented by the paragraph at the top of Page 20 which calls attention to—

"The possible role of MNCs in the volatile short-term movements that have occurred (in the international monetary system) in addition to the fundamental disequilibria in the balance of payments of several major industrial countries."

Even though the Report agrees that the convulsions in the international monetary system were probably not caused by MNC activities, the Report nevertheless finds that the potential movement of funds is sufficient to require vigilant monitoring by central banks.[3] Policy recommendations, even in a form other than "The Group recommends," should be reached with greater attention to the basic facts.

CHAPTER III—IMPACT ON INTERNATIONAL RELATIONS

1. The issues discussed in this Chapter are central to the Report, and therefore it is most important that the issues be examined with great impartiality and care. I do not feel that the Report has achieved the appropriate degree of objectivity. For example, it is stated on Page 2 that in a number of cases—

"MNCs have actively promoted political intervention in the domestic affairs of host, particularly developing, countries."

Since ITT is the only example mentioned in the Report, is it not fair to require that other examples be documented to substantiate this charge?

As another example, the Report rather vaguely charges, without substantiation, that MNCs, being close to domestic groups favoring foreign investment, can "rally against groups advocating social reforms." On Page 5 the Report states that—

"Governments, especially home country governments . . . have on occasion used the corporations as instruments of their foreign policy and even for intelligence activities."

Again the charge is not substantiated, although on the contrary the world has recently been treated to numerous examples of oil producing countries forcing their foreign policy objectives on oil consuming countries through MNCS headquartered in those same consuming countries.

Again, this Chapter represents a reaction of the Group to the activities by ITT in attempting to intervene in the affairs of Chile rather than a case strengthened by adequate examples. While ITT's action in Chile was a reprehensible affair that resulted in the denial of ITT's claim for OPIC insurance compensation for its expropriated Chilean properties, it has not been established that it is the norm for MNCs. Therefore, the Report tends to feed the fears of those who believe that MNCs are subverting governments of developing countries, without the faintest shred of evidence beyond the ITT example to prove that this fear is justified.

2. The Report correctly points out on Page 6 that it is clearly necessary for host governments to pledge themselves to pay fair compensation. For compensation to be fair and adequate, it must also be prompt and effective. Compensation long delayed will be often of little value.

3. The Report states at the bottom of Page 6 that while compensation for nationalization should ideally be determined by mutual negotiation, the host country government, by failing to agree to this, can force recourse to the host country legislative and judicial processes. No reference is made to the requirements of international law that nationalization be non-discriminatory, for a public purpose, and that prompt, adequate and effective compensation be paid. UNCTAD Resolution 88 (XII) is cited, but not UN General Assembly Resolution 1803, which affirms the obligation required by international law to pay fair compensation for expropriated property.

4. The Report on Page 7 suggests that, in cases of countries with serious balance of payments problems:

"International lending agencies should consider making soft long-term loans available to countries facing this difficulty."

While one may sympathize with the plight of countries having balance of payments problems, their very condition ought to cause them to proceed with great caution before using their limited capital resources to acquire ownership over existing assets. Developed countries are not likely to approve the use of soft, long-term loans, which should be used for the development of new productive capacity or infrastructure, for purposes of nationalization of MNC properties.

5. The Report is deficient in its treatment of international arbitration on Pages 7 & 8. Most developed countries accept international arbitration, and the majority of the 65 countries which have joined the World Bank's Center for the Settlement of Investment Disputes are developing countries. In this particular case the Group erred on the side of caution in not making a recommendation that would encourage international arbitration.

6. On Page 9 the Group recommends that—

"Home countries should refrain from involving themselves in differences and disputes between multinational corporations and host countries. If serious damage to their nationals is likely to arise, they should confine themselves to normal diplomatic representations. No attempt should be made to use international agencies as means of exerting pressure."

This recommendation is not realistic. It is entirely proper for a home country to review its aid program, for example, in the case of a country that has expropriated unfairly the property of home country nationals. No government should be asked to accept the principle that it should limit itself exclusively to "normal diplomatic representations" in the case of serious damage being inflicted on their nationals by the host government.

I should point out that I have worked in the U.S. Senate to remove the mandatory character of U.S. law requiring the termination of U.S. foreign aid to a country expropriating a U.S. national's property without fair, adequate and prompt compensation. This amendment has been achieved with respect to bilateral aid, and it is my hope that it can now be achieved with respect to multilateral aid. However, the President should retain the discretion to cut off aid if he thinks the situation warrants it. I should also point out that the United States business community clearly opposes the mandatory nature of U.S. law requiring aid termination, and supports the position I have outlined.

CHAPTER IV—INTERNATIONAL MACHINERY AND ACTION

1. I have previously stated my agreement with the recommendation of the Group that a Commission on Multinational Corporations be established under ECOSOC. This is a most worthy objective. The Commission should work in the closest harmony with other international bodies engaged in similar activity.

2. On Page 6 the Report suggests that—

"Advisory teams . . . should be made available to requesting governments to assist them in evaluating investment proposals, and in analyzing proposed contracts and arrangements, and, if desired, to provide technical advisory support to governments related to their negotiations with MNCs."

I have previously stated (Comments on Ch. II, #2) my objections to UN advisory teams providing technical support to developing country governments related to their negotiations with MNCs. The training efforts proposed are to be commended.

3. The discussion of a Code on Conduct on Pages 8–9 is rather insubstantial for so important a subject. A code of conduct should be developed from the widest possible variety of sources over a period of time and the task of preparation cannot be entrusted alone to the Commission on Multinational Corporations.

4. The Report notes on Page 9, the serious lack of both financial and non-financial information on MNCs, but the Group seems to have no clear idea of what information should be sought, or in what order of priority. It is possible to inundate the UN with flows of information without any of its being reduced to a comprehensible form of use to developing country governments. It should be recognized that careful standards of confidentiality would have to be devised, as in the case with "confidential" corporate data collected by the departments of the U.S. Government, for example, MNCs are reluctant to release some kinds of information because it is developed at considerable cost to the individual MNC and could be useful to competitors. Without the greatest care and mutual cooperation in this sensitive matter, governments will regard failure to release certain types of information as evidence of wrongdoing rather than the legitimate preservation of corporate knowhow and financial data. On the other hand, there is growing pressure on MNCs from all governments to provide more data for public policy purposes, and MNCs must be prepared to cooperate in this definite trend.

[3] For an analysis of MNC activities in the international monetary markets, see "How the Multinationals Play the Money Game," an interview with Sidney Robbins and Robert Stobaugh, *Fortune*, Volume 88 No. 2, August 1973, pp. 59–62.

CHAPTER V—OWNERSHIP AND CONTROL

1. On page 6, the example of ADELA as a corporate model for other MNCs to follow is misleading, because ADELA's aims are those of an investment bank, taking minority equity participations in new ventures for development purposes, with a view of revolving the investment once it has reached the stage of maturity. This is not the ordinary intent of an MNC, and cannot be held up as an example to the average MNC. But it shows a need for a global ADELA for private enterprise just as the International Bank for Reconstruction and Development has a soft loan International Development Association.

2. The recommendation on Page 7 that MNCs gradually switch from involvement in well established projects to reinvestment in new ventures seems to be fairly impractical; it would exclude the MNC from the benefits of a ripening situation, while leaving it only with all the costs and the risks of the initial stages of a new enterprise.

CHAPTER VI—FINANCIAL FLOWS AND BALANCE OF PAYMENTS

1. This chapter takes a sound overall approach to the question of financial flows. The Report makes the proper point on Page 5 that developed countries should provide greater access to their markets for the manufactured and processed goods of the developing countries. I agree on the necessity for a scheme of generalized preferences for the developing countries.

2. On Page 3 & 4 the Report states:

"Because of their concern with the balance of payments problem, developing countries sometimes restrict remission of dividends, royalties and so on. Nevertheless, MNCs are often able to circumvent such restrictions through transfer pricing and other devices."

The second sentence implies that MNCs in fact do circumvent dividend restrictions through transfer pricing mechanisms, although there is little information on this subject and none before the Group.

CHAPTER VII—TECHNOLOGY

1. Chapter VII contains much useful material on technology. There is no doubt that it has been largely the ability of the MNCs to generate and apply technology which accounts for their rapid growth, as each affiliate may draw upon the knowledge of the entire organization. The real problems stem from the fact that the market for technology is an oligopolistic one and the bargaining position of the developing countries is obviously weak. While developing countries would like to create and strengthen their own national technological capabilities, it is not clear how this may be accomplished in a practical way. A major concern should be to encourage the transfer of technology, but this is unlikely to be accomplished through the highly simplistic formulation contained in the first paragraph on Page 10. After stating that "there is no formula by which the fair price of technology can be determined," the paragraph concludes with the statement that "the transfer to the developing countries does not entail any significant extra cost." Although this presumably is an argument advanced by the developing countries, the reader is left with the implication that technology transfers should be a virtual gift.

2. In the section entitled "The Choice of Products" the Report recognized that the interest of developing countries is often that of having labor-intensive methods of production used, as well as having national tastes and needs recognized in designing the product to be sold to domestic customers. The usual position of MNCs, based on costs, is often in favor of internationally standardized products. On this issue, not enough weight has been given to the positive effect of standardization the world over, in order to achieve economies of scale at a global level and to use them for the purpose of raising the standards of living in developing host countries.

3. On Page 7 the Group recommends that developing countries set up "machinery for screening and handling investment proposals by multinational corporations . . . For evaluating the appropriateness of technology." This recommendation is both impractical and unworkable. Government officials are likely to be unqualified to pass judgment on MNC technology. and may opt for a labor intensive technology for domestic political reasons, thereby shutting off more advanced technology inflows. This is even more likely in the case of the more technologically advanced MNCs.

4. It is certainly worth examining alternative means of acquiring technology as outlined on Pages 12–14, although it should be pointed out that what is actually reinforcing the position of the MNCs is two facts. First, technology becomes obsolete fairly rapidly and a constant supply of fresh technology is essential. Second, know-how concerning the capability of producing efficiently is much more than the technology which patents protect. Nevertheless, it is proper for host countries to consider ways other than foreign direct investment for acquiring technology and to favor these alternative solutions: management contracts, joint ventures and turnkey operations, which permit ownership and control to remain at least partly in indigenous hands.

CHAPTER VII—EMPLOYMENT AND LABOR

1. On pages 4 & 5 the Report recommends that—

"Home and host countries, through general budgetary support, the normal working of the social security system or the establishment of social funds, provide for full compensation to the workers displaced by production decisions of multinational corporations. Recognizing that some developing countries do not possess adequate means for that purpose, the Group recommends that consideration should be given to the creation of an international social fund, including contributions by MNCs, which would supplement the resources available to such countries."

Adjustment assistance for workers under certain conditions, such as those contemplated in the proposed U.S. Trade Reform Act of 1973, is quite important. Moreover, the government of each developing country can properly give adjustment assistance for whatever purpose it chooses. However, it is improper to attempt to compel a private company (MNC) to pay for such assistance. Such a recommendation is discriminatory against MNCs as compared with other business enterprises. To the extent that a state can afford adjustment assistance measures, they should apply equally to national and multinational enterprises. Otherwise, the displaced workers formerly employed by the multinationals would receive more favorable treatment than their fellow countrymen. The idea of an international social fund would entail very difficult questions of distributive fairness.

2. In an environment of underdevelopment and chronic unemployment, developed countries should favor the upgrading of their domestic productions through appropriate retraining of their workers and should leave the doors open to imports of labor-intensive and low-skill products manufactured in developing countries. This can also be an effective way to restrain inflation in the developed countries. One must, of course, recognize the political obstacles to such a policy.

3. The Report recommends on Page 12 that—

"Through appropriate means, home countries prevent MNCs from going into countries where workers' rights are not respected unless the affiliate obtains permission to apply internationally agreed labour standards, such as free collective bargaining, equal treatment of workers and humane labour relations."

This seems to invite home countries to interfere in the affairs of sovereign nations. Although such policies may have worthy objectives, multinational enterprises should not be used for the purpose of imposing one government's attitude upon another. International standards of behavior, applicable to both national and multinational enterprises, can only be arrived at and implemented by the consent of sovereign governments.

CHAPTER IX—CONSUMER PROTECTION

1. My only comment on this chapter concerns its underlying assumption that governments have the wisdom necessary to prohibit the importation or local production of socially undesirable products. For example, on Page 2 the Report states:

"We believe that governments have the right to discourage, or even prohibit in some cases, the importation or local manufacturing of certain products which they consider socially undesirable."

While one can understand the desire of governments to control the abuses of certain types of advertising, the suggestions contained in this chapter are likely to lead to the development of yet another developing country bureaucracy aimed at maintaining the social purity of its citizens—a path more likely to lead to totalitarianism than freedom.

CHAPTER X—COMPETITION AND MARKET STRUCTURE

1. A substantial portion of this Chapter constitutes an explicit endorsement of a report to UNCTAD by the Ad Hoc Group of Experts on Restrictive Business Practices (document TD/B/C.2/119), which contains various allegations of MNC misconduct without sufficient factual proof. Both the UNCTAD report and the Group's report focus on various types of "possible" MNC misconduct, without a factual base or examination of the behavior alleged.

2. On Page 5 the Report states that—

"One of the means at the disposal of host countries, which should be internationally accepted, is to relate profit available for remittance by an affiliate to its export performance."

Many MNCs invest in a country in order to serve that local market, while others investing in raw material extraction may export their entire production. Thus export performance may be completely irrelevant to the object and size of the investment and hence irrelevant as a criterion for profit remittance.

CHAPTER XI—TRANSFER PRICING

1. Transfer pricing is a real problem. It has been used largely for reducing taxation, and sometimes to decrease profits in less than 100% owned subsidiaries, through the shifting of the profit from one country to another. Other reasons include protecting the MNC from risks of currency depreciation, and taking advantage of different rules of exchange controls regarding various types of remittances. Section 482 of the U.S. Internal Revenue Code is an example of an attempt to regulate transfer pricing, in order to prevent tax evasion, based on arm's length prices.

2. On Page 5 the Report suggests that—

"The transfer prices at which an MNC deals with or among its affiliates, as well as the prices in transactions with outside suppliers or customers, should either be publicized or made known to the interested parties upon request."

While full disclosure of information on transfer pricing is a worthy principle, it should be recognized that for MNCs selling hundreds of products in dozens of markets, this would be extremely difficult to do. Also quite legitimate questions of business confidentiality are involved. Often such infor-

mation is highly competitive and may involve confidential proprietary information.

CHAPTER XII—TAXATION

1. The question of taxation is extremely important and deserves the highest priority for study. It would indeed be useful if international agreement could be reached on essential tax matters, such as the use of tax incentives and inducements. The Report recognizes that tax reform in the treatment of MNC earnings could be a powerful tool in a concerted strategy for development.

2. On Page 6 the Report calls for—

"Taxation by home countries of the global profits of their MNCs as if they were earned within their borders, while providing full relief for taxes paid to other countries. In other words, the principle of taxation of world profits would apply on an accrual basis and would not be deferred until such time as earnings abroad are remitted to the home countries."

There are undoubtedly strong arguments for the elimination of tax havens, but this proposal would require a complete reworking of the international tax system. This proposal requires far more study, and cannot be accepted on the basis of the facts before the Group or the Group's arguments in the Report.

3. The recommendation on Page 9 states that—

"The various schemes which are or may be applied for the taxation of multinational corporations should be supplemented by the provisions which it has suggested in each case to meet the various objectives which it has analyzed."

This recommendation is extremely vague and should not have been included in the Report in so imprecise a form.

CHAPTER XIII—INFORMATION DISCLOSURE AND EVALUATION

1. The inadequacies of existing information on MNCs, and information gathering and evaluation systems, are a frequent theme of the Report. The convening of an Expert Group on International Accounting Standards, as recommended on Page 2, is a sound suggestion which should be implemented. It is important to recognize the legitimate confidential character of much of the information sought about MNC activities. The UN needs to define more precisely the type of information needed and develop safeguards necessary to preserve its confidentiality.

THE STATE OF THE JUDICIARY IN THE SEVENTH FEDERAL CIRCUIT

Mr. HARTKE. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a portion of a report entitled "The State of the Judiciary in the Seventh Federal Circuit," prepared by a distinguished jurist and a valued friend, Chief Judge Luther M. Swygert. I believe that my colleagues will find much more than cold facts in the portion of the report reprinted below; they will find perceptive observations about some of the most profound problems facing our courts today.

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

THE STATE OF THE JUDICIARY OF THE SEVENTH FEDERAL CIRCUIT

(By Chief Judge Luther M. Swygert)

I must never speak more clearly than I think.—*Niels Bohr*

The desire to have things done quickly prevents their being done thoroughly.—*Confucius*

As I have done in previous years, I wish to report on the affairs of the Seventh Circuit and to give the bar and the public an accounting of our Circuit for the past year. I appreciate the opportunity you afford me.

DISTRICT COURTS

First, let me discuss the workload of the district courts. The number of cases filed in the district courts, both civil and criminal, was almost identical in 1972 and 1973. The number of terminations also remained about the same.

The Western District of Wisconsin continues to have one of the highest caseloads in the nation. A new judgeship for that district has been approved by the Senate Subcommittee which is considering the Omnibus District Judgeship Bill. The Subcommittee did not, however, approve new judgeships for the Northern District of Indiana and the Southern District of Indiana, although additional judgeships had been recommended by the United States Judicial Conference for both districts.

There is one district court vacancy, here in Milwaukee. As you know, former Chief Judge Robert E. Tehan took senior status on July 1, 1971. The vacancy thus created has existed for almost three years. Happily the press has reported some recent activity which might lead to the filling of that vacancy. I might add that Chief Judge Reynolds and Judge Gordon and the Circuit Judicial Council have strongly urged the President to fill this vacancy.

Since our last conference three district judges were appointed and took office. Judge Prentice Marshall in the Northern District of Illinois, who filled the vacancy created by the death of Judge Napoli, Judge Harlington Wood, Jr. in the Southern District of Illinois, who filled the vacancy created when Chief Judge Poos took senior status, and Judge Allen Sharp in the Northern District of Indiana, who filled the vacancy created when Chief Judge Grant took senior status.

COURT OF APPEALS

Turning to the appellate court, the Seventh Circuit Court of Appeals in 1973 experienced a ten percent increase in filings over 1972. But I am happy to report that the court still was able to terminate twenty-nine more cases than were docketed during the year. This was the first time we terminated more appeals than were filed since 1966.

The increase in caseload of the Court of Appeals reflects the national trend of a constant gain during the 1960's which is continuing into the 1970's. In the Seventh Circuit 361 appeals were filed in 1961; 510 appeals in 1966; 843 appeals in 1970; and 1163 appeals in 1973. This represented a 128% increase since the authorization of the eighth judgeship for the court in 1966.

In 1973 the court heard oral arguments in six appeals a day, five days a week, for twenty-two weeks, or a total of 660 arguments. Prior to September 1968 the court was hearing two arguments a day, then shifted to three arguments per day. In September 1970 the court began hearing four appeals per day, and then in September 1972 went to six per day.

Circuit Judge Roger J. Kiley took senior status on January 1, 1974. The vacancy created thereby has not yet been filled, although it is hoped that it will be shortly.

Recently the Senate Subcommittee on Improvements in Judicial Machinery held a hearing on the need for a ninth circuit judgeship for the Seventh Circuit. A request for this additional judgeship was recommended in 1971 by the Judicial Conference of the United States. I hope that Congress will include this request in the pending Circuit Judgeship Omnibus Bill.

At this point, I would like to acknowledge the great aid the Court of Appeals has received during the past year from its senior judges, many of the Circuit's senior and active district judges, and a number of judges from outside the Circuit including Mr. Justice Tom Clark.

COPING WITH THE COURT OF APPEALS CASELOAD

Besides increasing the number of oral arguments per day, the Court of Appeals has instituted several innovations over the past five years.

The court has a simple but effective screening procedure whereby a relatively few cases are disposed of without oral argument and a good number are limited to less than thirty minutes per side for argument. Our screening procedure also permits related cases, this is, cases presenting similar issues, to be set for argument on the same day.

The circuit judges are strongly committed to oral argument, albeit often limited, in all appeals except *pro se* prisoners appeals, patently frivolous appeals, and those appeals in which a motion for summary affirmance under Circuit Rule 22 is granted. We think litigants and their counsel are entitled to present their arguments orally and that oral argument materially aids the judges in fully understanding the issues and focusing on them. I hope we never abandon that attitude.

As another innovation the Court of Appeals put into effect Circuit Rule 28, a plan covering the publication of signed or *per curiam* opinions and disposition by unpublished orders. Citation of the latter is prohibited within the Circuit. The rule may be somewhat controversial, but I believe it is working well and, generally, has the acceptance of the bar. That acceptance is evidenced by a recent poll conducted by your Association and by studies conducted by other bar association with the Circuit.

Circuit Rule 28 is described in detail in Mr. Strubbe's report, including the reasons for the rule and the criteria used in differentiating unpublished orders from published opinions. I commend your reading Mr. Strubbe's description. I wish, however, to emphasize two aspects of Rule 28: It saves judge time and reduces the needless publication of decisions which have no precedential value and, second, it assures litigants and counsel that their appeals have been fully considered since detailed reasons are stated in the orders for the court's judgment.

A third innovation was the adoption of Circuit Rules 24 and 30 which have benefitted litigants by reducing the costs of appeal. Circuit Rule 24, as you know, dispenses with the requirement of an appendix of the record in *all* cases. I do, however, wish to emphasize the preferred practice suggested in the rule of attaching a small appendix to the briefs so as to include in the briefs the findings of the district judge, his memorandum of decision, the contract sued upon, the applicable statute, etc. Circuit Rule 30 reduced from twenty-five to fifteen the number of copies of the briefs which must be filed.

A fourth innovation described in detail in Mr. Strubbe's report is the extensive use of docketing conferences in criminal appeals pursuant to Rule 33 of the Federal Rules of Appellate Procedure. At the conference, held immediately after the appeal is filed, a briefing schedule tailored to the individual appeal is adopted. The court is contemplating the use of Rule 33 in civil cases, particularly in patent and antitrust appeals.

COPING WITH THE DISTRICT COURT CASELOAD

I report that Rule 50(b) plans in each district court for the expedition of criminal cases are operating, with some minor exceptions, satisfactorily.

The number of pending civil cases more than three years old is less than the national average in each of our districts. A more impressive indicator of the work of the district judges is the fact that as of January 1, 1974, there were only six cases and four motions in the entire Circuit held under advisement for more than sixty days.

It should be noted, however, that a number of district courts are experiencing difficulty in trying civil cases because of the increase of criminal filings.

The district chief judges for the last two years have been having periodic meetings with the chief judge of the Circuit to discuss matters of mutual interest, such as Rule 50 (b) plans, Criminal Justice Act plans, jury selection plans, and jury utilization. These meetings have been effective in improving court administration within the Circuit.

In 1971, and since that time, the district judges have met at a separate session on the first day of the annual judicial conference. I believe all would agree that this innovation has made our Conference more beneficial. Since 1971 concurrent meetings have been held for various court personnel. Clerks of the courts met in 1971, the magistrates in 1972, the judges' secretaries in 1973, and the probation officers are meeting this year.

FUTURE INNOVATIONS

The District Courts for the Northern District of Illinois and Western District of Wisconsin and the Court of Appeals are making a joint study regarding the feasibility of microfilming all the papers and documents filed in those courts and using microfilm, or rather microfiche, as the primary source of reference. This feasibility study is being conducted by the National Archives and Records Service Center and, if feasible, microfilming will start as an experiment this year. The courts do not know all the possible advantages or disadvantages except for a tremendous saving of filing space.

Judge Beamer has agreed, with the help of the University of Notre Dame Law School, to record on audiotape a number of trials beginning in September. If any of these cases are appealed, the Court of Apepals shall, on an experimental basis and with consent of counsel, use the tapes as the record on appeal. I add that the court reporter in those cases will continue to record the testimony and prepare a transcript if necessary.

This completes my report. However, I would be remiss if I did not acknowledge the great debt that the bar and the federal courts of the Seventh Circuit owe the Bar Association of the Seventh Federal Circuit. Your support has been of inestimable value. I shall not attempt to recount your many beneficial activities. I would, however, like to mention the Practitioner's Handbook, the study of Rule 28, the support for the ninth circuit judgeship, and your invitation to the Commission on Revision of the Federal Court Appellate System to hold a hearing in Chicago. Parenthetically, the invitation has been accepted and the Commission will hold hearings in Chicago on June 10 and 11. And, of course, we could not forget your annual participation in our Circuit conference. That participation has meant much to the success of our conferences. Your generosity in furnishing portraits of the circuit and district judges is also very much appreciated.

I would like to close my remarks on a personal note. This is my last report on the state of the judiciary of the Seventh Circuit. My tenure as chief judge will end in accordance with federal statute early next year. For that reason, I would like to take this opportunity to express my deep appreciation and thanks to your Association for its gracious understanding and cooperation.

My equally sincere, heartfelt appreciation is extended to my fellow judges of the Circuit, both the district judges and my brothers on the Court of Appeals, for their unqualified support, understanding, and cooperation. There has been good rapport. Moreover, you have engendered a spirit of collegiality and fraternalism throughout the Circuit that has made my tasks much easier. I am sure the spirit of cooperation and support of both the bar and the judges afforded me will continue when Judge Fairchild succeeds me as chief judge.

If I have one final word as chief judge, it is this: I hope the federal judiciary continues always, above everything else, to think of the quality of justice that our courts afford litigants. Quantity ought never reduce quality. I have spoken on this subject on other occasions. It is an article of faith with me. As I recently said at the Senate Subcommittee hearings while testifying for the ninth judgeship: "Hurried judgments are sometimes unwise judgments." Every judge should be dedicated to the prime principle that since each case is of utmost importance to the litigants, it therefore deserves not only full consideration but also whatever amount of judicial time that is required by the importance of the issues.

Judges can utilize many methods to speed up the judicial process without sacrificing sound judgments. Such ways include pretrial conferences, bifurcated trials, streamlining jury selection, appellate prehearing conferences, and limited screening. But speed for the sake of speed should be avoided. Pretrial conferences designed to coerce settlements or shunted to magistrates, denial of proper voir dire questions during jury selection, hurried trials in district courts, drastic screening procedures designed to severely curtail oral argument in appeals, and summary decisions without stating reasons by appellate courts do not comport with good judging. Furthermore, we judges should try to forego complaining about the large amount of work we have to do and bemoaning our mounting caseloads. What we need is both constant probing in imaginative and constructive ways for better methods by which the judicial process can operate and judges who completely dedicate themselves to the business of judging. What we need is a responsible and competent bar who will avoid consuming, needlessly, judges' time by presenting insubstantial issues and making frivolous arguments.

We judges and lawyers of this country must render a continuing accountability to the public for our performance. We hardly need to remind ourselves that we, the judiciary and the bar, are primarily responsible not only for the proper administration of justice but also for the guarding of the Constitution and a system of laws, without which our free society could not exist.

In that vein I close my remarks by quoting the then Governor of the State of California, Earl Warren, who spoke before the American Bar Association in Atlantic City in 1946: "The administration of justice is not a vested monopoly of lawyers and judges, but on the contrary is the property of all the American people—a system designed for the protection of their personal and property rights in a free and orderly society. Millions of Americans go through their lives without ever coming into contact with any phase of the administration of justice—either civil or criminal. To these people, the courts seem far removed, and seem to have little bearing on their lives. Yet, the fact is, that our American court system is inseparably connected with the lives of all our people, whether they use it or not, in much the same way that the fire department functions, for the protection of homes which never burn."

COMMUNITY SERVICES ACT OF 1974

Mr. CURTIS. Mr. President, on May 29 the House of Representatives passed, with very little debate, a measure of enormous significance which is shot through with the potential for wrongful spending and misdirection of public funds. I refer to H.R. 14449, a $3.76 billion dollar proposal which has been misnamed as the Community Services Act of 1974.

Because of the esteem in which I hold the members of our counterpart legislative body, I can only conclude that the great majority of those who voted for H.R. 14449 did so without either carefully examining its 179-page contents, or looking behind its phraseology to consider its actual impact.

Many Members appear to have voted for it because they had been persuaded that to do so was necessary to preserve Federal funding for OEO's community action agencies. Personally, I am opposed to such use of funds. But my point is that even those who wish to provide Washington money and control of Community Action Agencies might do themselves a favor by opposing other provisions in H.R. 14449 which are unrelated to the basic question of whether Community Action should be institutionalized in its present form.

Some members appear to have voted for H.R. 14449 because it provided for the symbolic death of OEO. My argument to those is that realities are more important than cosmetics. H.R. 14449 eliminates OEO in name only. In fact, it preserves and expands its operations, under different names and in new bureaucratic locations—places where its more nefarious activities will be better able to escape the glare of public attention.

Still other members appear to have supported H.R. 14449 because they felt they had to in order to survive politically—not because the special interest groups which profit from its largesse have spent the last year organizing to protect their private claims on the public purse by bringing political pressures designed to penalize at the polls those Members of Congress who dared to resist their demands. This lobby—which has reached into every congressional district in America—has ridden to battle armed with literally millions of dollars of public funds to advance their cause.

The OEO lobby has been funded in a variety of ways: First, assignment of personnel and equipment to build pressures in favor of H.R. 14449 and its predecessor legislation; second, publications and mailings by many of the several thousands OEO-funded organizations throughout the Nation; third, use of OEO-sponsored conferences and travel funds to promote passage of the bill; fourth, the organization of demonstrations and rallies by OEO employees and employees of OEO-funded groups; fifth, checkoffs of dues from OEO employees and employees of OEO-funded organizations; sixth, assignment of fees and other organizational assessments from OEO grants for nonprofit organizations, directly and indirectly into the coffers of lobbying coalitions and groups; seventh, support from literally dozens of private organizations which thrive on the extra dollars which flow to them by virtue of their tax-exempt status.

Despite this massive lobbying campaign—aided and abetted by the maneuverings of high-ranking OEO officials who used their control over public funds to organize pressures on Members of Congress—despite all these efforts, I am convinced that if the American people could participate in a referendum on this legislation, fully aware of its contents, they would reject it overwhelmingly.

Let me give you the true flavor of this

incredible bureaucratic powergrab and payoff machines:

It is provided that governing boards of Community Action agencies shall include officials or members "of business, industry, labor, religious, welfare, education, or other major groups and interests in the community." This has the effect of giving control over millions of dollars (in funds from the Federal Treasury which are assigned to CAA's in major cities) to leaders of the AFL–CIO, welfare rights organizations and others which are primarily political in nature.

Operating from the premise that the only poor people worth listening to are the organized poor, H.R. 14449 establishes that "representative groups of the poor which feel themselves inadequately represented" may petition for "adequate" representation.

Even though CAA's and their employees, because they are defined as private non-profit groups, are not subject to the same restrictions on their activities which cover Federal employees, that is not so bad as the fact that the CAA's are empowered to delegate their functions to other private organizations even less accountable to the public then are they.

The bill, in effect, mandates the use of CAA funds to promote political change by virtue of such language as that which called for effective procedures by which the poor and area residents will be enabled to influence the character of programs affecting their interests.

Prohibitions on advocacy on behalf of the poor do no preclude picketing, protest, or other direct action unless done in violation of law. Believe me, there is no such law.

Every CAA is called upon to encourage the establishment of housing development and services organizations in competition with the private housing industry.

CAA's are given authority over such diverse aspects of the lives of the poor as employment, education, family planning, making better use of available income and living environment. They are even ordained with a mission to remove obstacles and solve personal and family problems.

Under the guise of community food and nutrition, H.R. 14449 authorizes the use of funds for services which in the past have underwritten conferences promoting the fortunes of such activist groups as the Grey Panthers.

There is a rural housing program created under which HEW bureaucrats may dispense 33-year loans at 1 percent interest and which also authorizes grants to nonprofit rural housing development corporations.

One of the most insidious sections of the bill permits employees of the Federal Government to enter any neighborhood in America and assign funds authorized under H.R. 14449 to develop neighborhood centers which are to be involved in child development, legal services, consumer protection, education, social services, and housing. In one fell swoop this bill could give Federal bureaucrats the power to supplant local government and intrude their social values and political objectives into every community, indeed, every streetcorner, in the Nation. If this provision becomes law, we might as well abolish Congress, abolish State and local government, and simply turn over the authority which we hold in trust from the people to the faceless bureaucrats who many feel already run America.

> The Director shall make grants or enter into contracts to provide financial assistance for the operating expenses of programs conducted by community-based design and planning organization to provide technical assistance and professional architectural and related services . . . to persons and community organizations or groups not otherwise able to afford such assistance.

Mr. President, stop and think about what that language means. Can any conscientious Member of this Congress support such sweeping language mandating that the Government arbitrarily assign funds for the purposes described simply on the grounds that the recipients cannot otherwise afford it?

There is a special section (213) on "Consumer Action and Cooperative Programs" which mandates grants and contracts for "consumer action and advocacy—and to develop means of enforcing consumer rights." Mr. President, why should we establish a consumer protection agency when this bill gives its powers to employees of the HEW bureaucracy?

This bill gives HEW the power to negotiate directly with bureaucratic employees of State agencies to "act as agents of the United States," totally bypassing elected officials and promoting direct bureaucrat-to-bureaucrat relationships without the inconvenience of interference by the voting public.

In an unusual grant of power, even for this bill, H.R. 14449 authorizes HEW to "provide financial assistance for projects conducted by public or private nonprofit agencies which are designed to serve groups of low-income individuals who are not being effectively served by other programs under this title." This should be called the "anything goes" section of H.R. 14449 because it grants total authority to Federal officials who may assign U.S. resources for any purpose they personally favor.

"The provision of special, remedial, and other noncurricular educational assistance" may be introduced, according to H.R. 14449, to virtually any elementary and secondary school in the United States. If loose interpretations of the past are any guide to future action, this section could be used to underwrite every liberal panacea from busing to sex education.

An incredible new source of bureaucratic patronage is opened up by H.R. 14449 as the "Director is authorized to make loans having a maximum maturity of 15 years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time to any low-income rural family" where he thinks it will help lift them out of poverty. It is further provided that "loans under this section shall be made only if the family is not qualified to obtain such funds by loan under other Federal programs."

H.R. 14449 creates a legal services program free of even those limited safeguards which now apply at OEO or those fewer which would come under the H.R. 7824 corporation plan. This result is achieved by giving Labor Department bureaucrats—including those who might have questionable backgrounds—authority to fund "legal advice and representation, and consumer training and counseling" through seasonal farmworker-oriented public interest law projects, such as the notorious migrant legal action program.

Not content to extend the powers of HEW and Labor Department officials, H.R. 14449 also expands the authority of the Small Business Administration. Believe it or not, the SBA would be empowered to give 15-year $50,000 loans "to any small business concern—or to any qualified person seeking to establish such a concern" so long as the Administrator of SBA, or those to whom he assigns authority, believe such loans will help establish businesses in areas "with high proportions of unemployed or low-income individuals or owned by low-income individuals." Moreover, the SBA may "defer payments on the principal of such loans." Mr. President, this is an invitation to trouble and abuse of power.

As if we have not already wasted enough money on expensive studies commissioned by the Government, H.R. 14449 includes broad authority to finance "research and demonstration" activities to aid "in furthering the purposes of this act."

With respect to special "demonstrations" which might, in each case, total millions of dollars in Federal aid, as well as with respect to all other activities sanctioned by H.R. 14449, bureaucrats can move the money they control into any State or community in the Nation without the approval and, indeed, over the objections of the elected officials of such jurisdictions.

In another patronage boondoggle which could be misused for political purposes, the Director is authorized to "appoint, without regard to the civil service laws, one or more advisory committees—to advise him with respect to his functions under this act." H.R. 14449 permits compensating such appointees at the present rate of $138 per day and paying their travel to whatever meeting sites officials of HEW might indicate. Nothing in the bill would preclude the appointment of hundreds, and even thousands of private citizens to these advisory posts, just as was the case in OEO's heyday. Mr. President, the administration wiped out literally hundreds of these OEO advisory posts last year. Why waste the taxes of our constituents by resurrecting them?

In its prohibitions on political activities, H.R. 14449 properly prohibits the use of funds "appropriated to carry out this act" to pay the salary of any officer or employee of the administration who, in his official capacity as such an officer or employee, engages" in activities designed to influence particular elections. But, it imposes no such restraint on the hundreds of thousands of persons employed full time by the advocacy groups which H.R. 14449 would subsidize, nor,

even for administration officials, does it restrict what they may do on non-"official" time. Thus the bill has even fewer safeguards than those already established by the Hatch Act for direct Government employees.

Eligibility for the benefits of H.R. 14449 is so broad that anyone can profit from its provisions (if favored by its bureaucratic bosses) so long as his lack of income does not result from "refusal without good cause, to seek or accept employment commensurate with his health, age, education, and ability." Who decides what is "good cause" for refusing work? The National Welfare Rights Organization? What about unemployed Harvard professors who cannot find positions on college faculties? Under this bill, if they turned down the chance to teach high school or drive a bus, they would be eligible for a parasitic existence at the expense of those willing to work for a living.

In a typical effort to assuage the honest concerns of those citizens weary of subsidizing demonstrations and protest marches, H.R. 14449 bans aid to demonstrations—but only if the demonstrations are illegal. As we know, demonstrations are usually not illegal, but that does not mean that the American taxpayer should be compelled to subsidize them as he would under H.R. 14449.

Because of the widespread anger that 78 to 80 percent of Federal poverty money goes to underwrite administrative costs, H.R. 14449 says salaries paid with appropriated funds to bureaucratic employees of organizations subsidized under the act "shall not be counted as an administrative expense." Mr. President, Congress may try "painting the roses red," but it shall not fool the people with this type of deception.

In an insidious racial slur on America's tradition of color-blindness in the expenditure of public funds, H.R. 14449 prescribes that benefits shall be assigned, not on the basis of need, or of merit, but on the basis of inherited racial and ethnic characteristics. I refer specifically to language setting forth conditions of assistance to business enterprises "owned or controlled by one or more socially or economically disadvantaged persons. Such persons include, but are not limited to Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts."

Mr. President, in these remarks, I have simply scratched the surface of this legislative monstrosity. Many equally bad provisions have been omitted from mention. Many of those cited could be expanded upon in great detail.

My purpose is to alert my colleagues to the contents of H.R. 14449, so that when the American people find out about it, they will have been forewarned to the reasons for their understandable wrath.

FRENCH NUCLEAR TESTING IN THE PACIFIC

Mr. HARTKE. Mr. President, leaders of our Government recently met with the new President of France, Valery Giscard d'Estaing, and reported to the Congress that a more cordial relationship between France and the rest of the world should be anticipated. Events over the weekend lead me to believe the foreign policy of France has not taken a new humanistic cooperative approach. In fact, discord within the French Cabinet over nuclear testing in the Pacific led to the dismissal of M. Jean-Jacques Servan-Schreiber as the Minister for Administrative Reform.

When Mr. Servan-Schreiber told a news conference that France's armed forces chiefs had virtually forced the government to carry out the country's next series of atmospheric nuclear tests in the Pacific this summer, he was immediately released by the new President.

Mr. President, I introduced Senate Resolution 155 last August 2, calling upon the President to inform the Government of France of the strong condemnation on the part of the United States of France's blatant disregard for human welfare and international law as evidenced by its policy of continued above-surface nuclear detonations in the Pacific Ocean. With the latest developments, I believe the expeditious passage of the resolution should merit the attention of all my colleagues.

Mr. President, I ask unanimous consent that an article appearing in the June 10 issue of the Washington Post be printed in the RECORD.

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

GISCARD FIRES SERVAN FROM FRENCH POST

PARIS, JUNE 9.—Millionnaire publisher Jean-Jacques Servan-Schreiber today criticized France's nuclear testing policy and was promptly dismissed from the Cabinet post he had held for less than two weeks.

His dismissal from the relatively minor post of minister for administrative reform was announced by Prime Minister Jacques Chirac after a late-night meeting with President Valery Giscard d'Estaing.

Servan-Schreiber, 50, who has long tried to cultivate the image of a dynamic, Kennedy style shirt-sleeved politician, had told a news conference earlier that France's armed forces chiefs had virtually forced the government to carry out the country's next series of atmopsheric nuclear tests in the Pacific this summer.

"The government was not consulted . . . The military confronted the Cabinet with a fait accompli," Servan-Schreiber said, apparently trying to indicate that this absolved him from maintaining solidarity with the Cabinet on this issue.

Defense Minister Jacques Soufflet sharply rejected Servan-Schreiber's description of the military role, declaring in a radio interview that decisions about nuclear testing clearly fall under the president's jurisdiction.

"Obviously, the army did not present him with a fait accompli. There can be no doubt in the matter. The president is naturally responsible for the military authorities," Soufflet said.

Servan-Schreiber, who heads the left-of-center Radical Party, has been a long-time critic of France's nuclear program. Last year, he sailed with a group on a yacht into the Polynesian test area to protest the nuclear tests.

Giscard d'Estaing had made it clear during his campaign lsst month that he intended to continue the country's nuclear testing program, and Chirac said before Parliament last week that France would continue its efforts in the nuclear field.

Yesterday, Giscard d'Estaing announced that France would end its atmospheric nuclear tests following the series planned for this summer. Future tests would be conduced underground, he said.

Servan-Schreiber said today, however, that the president's statement "preserves the future but cannot entirely redress the damage caused to our country."

Servan-Schreiber, publisher of the mass circulation weekly news magazine l'Express, supported Giscard d'Estaing in the presidential election and was rewarded with the ministerial post.

He has encouraged his followers to refer to him as "JJSS"—a conscious attempt to imitate JFK and FDR.

Servan-Schreiber is widely assumed to have presidential ambitions.

His unexpected criticism of the government nuclear program yesterday, which carried with it the logical risk of dismissal from the Cabinet, gave rise to speculation that he may have regarded the administrative reform ministry post as too unimportant for him.

Just two days ago, Servan-Schreiber's sister, Francoise Giroud, a top editor and columnist for l'Express, turned down a position with the government because she said it was not sufficiently important.

But she said the post that was finally offered was "not really at government level," and said this change "seemed to me to indicate a very definite backing down on the part of Mr. Chirac regarding the importance that would be paid to women's conditions and rights."

Servan-Schreiber has been an international celebrity since he authored "The American Challenge" in 1967. The book contended that the United States was taking over Western Europe through the investments and dynamism of American industry on the Continent.

It was hard to gauge immediately the impact of Servan-Schreiber's dismissal less than two weeks after he had entered a Cabinet with other hard-core moderate opponents to Gaullism. The political forces to which Servan-Schreiber belongs have essentially been out of power since Charles de Gaulle took over the French government in 1958.

But Servan-Schreiber may be seen by his political allies and by the public as a special case. The key to that will be whether his partner as head of the moderate anti-Gaullists, Jean Lecanuet, remains in office or not. He entered the Cabinet as Justice Minister, a prestigious, but not a key post.

If Lecanuet stays in office, Servan-Schreiber's dismissal can be passed over by the Giscard d'Estaing government as nothing but a regrettable incident needed to assert ministerial discipline at the outset of a new administration. Then Servan-Schreiber would most probably appear as what he has often been, a maverick whose personal political ambitions were difficult to fit into the mold of a team effort.

Between them, Lecanuet and Servan-Schreiber could claim to speak for a disparate group of perhaps 60 deputies in the 490-seat National Assembly.

The regular Gaullists control 181 seats and Giscard d'Estaing's own party, the Republican Independents have 55. If other centrists were to follow Servan-Schreiber into the opposition, that might force Giscard d'Estaing to rely more heavily on the Gaullists and to trim his current highly publicized efforts to get away from the slightly authoritarian image of the Gaullists in domestic policy and away from their doctrinal anti-Americanism in foreign policy.

NO-KNOCK REPEAL

Mr. PERCY. Mr. President, on June 7, 1974, I introduced S. 3603, a bill designed to repeal the Federal and District of Co-

lumbia no-knock statutes as well as to insure official compliance with fourth amendment safeguards in the future. Due to an oversight, the text of my legislation was not printed at the conclusion of my remarks in the RECORD, as I had requested. I ask unanimous consent that this be done now so that Senators and Members of the House of Representatives can review it, hopefully offer to cosponsor it or introduce similar proposals, or suggest appropriate alterations.

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

S. 3603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 509(b) of the Controlled Substances Act (21 U.S.C. 879) is amended to read as follows:

"(b) No Federal officer, authorized to execute a search warrant relating to offenses involving controlled substances, may break open an outer or inner door or window of a building, or any part of a building, or anything therein, without first identifying himself and giving notice of his authority and purpose.".

SEC. 2. Section 3109 of title 18, United States Code, is amended to read as follows: "No Federal officer may, pursuant to the conduct of any search, break open an outer or inner door or window of a building, or any part of the building, or anything therein, without first identifying himself and giving notice of his authority and purpose.".

SEC. 3. (a) Section 23-561(b)(1) of the District of Columbia Code is amended by striking out the last sentence thereof.

(b) Section 23-591(c) of the District of Columbia Code is repealed.

SENATOR NELSON OPPOSES TAX CUT

Mr. PERCY. Mr. President, a recent article in the Christian Science Monitor outlines the reasons why Senator GAYLORD NELSON is opposed to a tax cut this year. Senator NELSON states that the additional inflation a tax cut would create would more than wipe out any benefits generated by such a cut.

Senator NELSON gives a number of reasons why a tax cut is not appropriate this year and concludes by saying that a tax cut "may be good election-year politics, but it is bad economics, bad for the country, and bad news for the taxpayer."

Mr. President, I totally concur with the views of Senator NELSON and ask unanimous consent that the article from the Christian Science Monitor be printed in the RECORD.

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

SENATOR CONTENDS REDUCTION WOULD BOOST DEFICIT—NELSON OPPOSES PROPOSED U.S. TAX CUT

(By Philip W. McKinsey)

WASHINGTON.—The Senate will be voting next week on a tax cut proposed by Senators Edward M. Kennedy (D) of Massachusetts, and Walter F. Mondale (D) of Minnesota, both potential contenders for the presidential nomination in 1976. And ordinarily in an election year, a tax cut led by two such influential figures would have all-out endorsement by their liberal colleagues.

Thus it is notable when a liberal stalwart like Sen. Gaylord Nelson (D) of Wisconsin parts company, charging that a tax cut in the face of double-digit inflation "is like a little boy playing with matches in the midst of the Chicago fire." A tax cut for individuals not fully offset by some revenue raisers would be "fiscal folly," he warns.

The Kennedy-Mondale proposal would cut personal taxes $6.6 billion by raising the personal exemption from $750 to $825 and offering a tax credit as an alternative. But it raises only $4 billion in tax "reforms," and it is doubtful that all the proposed reforms would pass.

The reforms include ending the oil depletion allowance immediately, repealing fast write-offs for business investment (the asset depreciation range), repealing export incentives, and tightening the minimum tax on wealthy individuals.

SOME QUESTION MOTIVES

To many of the liberals, a tax cut by itself is pure political gamesmanship and some express some cynicism about the motives of Senators Kennedy and Mondale. "This is a ship being set out to sink," says one.

The House Ways and Means Committee is drafting a tax-reform package, which could raise revenues from business and upper-bracket taxpayers simultaneously with cutting taxes for lower brackets, and most members consider that the more responsible route. Even the AFL-CIO opposes a tax cut without fully offsetting revenue-raisers.

Senator Nelson argues that the inflation a tax cut would feed would more than wipe out the benefits. A 1 percent increase in consumer prices adds an extra $8.5 billion burden on to consumers, some $2 billion more than the tax break they would get.

SITUATION CALLED DIFFERENT

Senator Nelson thinks the tax-cut proponents are harking back nostalgically to 1964, when a tax cut in the face of a big deficit actually helped wipe out the deficit by stimulating the economy. But 1974 is not 1964, says Mr. Nelson. The economic situation is entirely different.

Then, industry was operating well below capacity and consumer demand was lacking. Today, many basic industries are operating at or near full capacity; further demand would simply drive up prices.

STABILIZATION HELD NEED

The economy is stagnant, the Senator acknowledges. The gross national product dropped more than 6 percent in the first quarter, and the rate of growth over the past year has been essentially zero. But this slump is due largely to a sharp drop in autos, the oil problem, and residential construction. And slack in these elements of the economy would not be helped by a tax cut.

The few dollars a week a taxpayer would save would not induce him to buy a car. The oil problem was due to events abroad. And the housing slump is caused by record-high interest rates and a money shortage, and will not be corrected until monetary policy stabilizes.

"Demand exists," Senator Nelson points out, "but only a few people can afford the present costs of new homes. A general tax cut has never been considered a proper response to a housing decline."

The political pressure for a tax cut comes from the fact that the real earnings of workers have dropped 4.7 percent in the past year. But if a tax cut is justified, for that reason, Mr. Nelson argues, it should not be voted until Congress has first done the tougher job of raising other taxes to pay for the slice in personal taxes.

A tax cut that widens the deficit, he says, "may be good election-year politics, but it is bad economics, bad for the country, and bad news for the taxpayer."

NEW DANGERS TO LAW ENFORCEMENT OFFICERS

Mr. PERCY. Mr. President, I recently learned, for the first time, of the manufacture and sale of two items which pose very real threats to the lives and safety of our law enforcement personnel.

The "belt buckle knife" and the "gun wallet" are the latest weapons on the market, and their potential use seems perfectly fitted for attacks against law enforcement officers.

I regard this latest development as one which is both quite serious and which needs to be brought to the attention of my colleagues in the Senate.

I ask unanimous consent that a letter I have received from Mr. David Fogel, executive director of the Illinois Law Enforcement Commission, and the material which he sent me from the Criminal Justice Digest, be printed in the RECORD.

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

ILLINOIS LAW ENFORCEMENT COMMISSION,

Chicago, Ill., June 3, 1974.

HON. CHARLES H. PERCY,
U.S. Senate New Senate Office Building Washington, D.C.

DEAR MR. PERCY: At a time in our nation's history when our society is numbed by the daily accounts of violence we are forced to read and hear from our news media, it is particularly ironic that private industry continues to produce and sell commercially a wide variety of weapons. I am referring specifically to the enclosed copies of news stories describing a "belt buckle knife" produced by the Bowen Knife Company of Atlanta, Georgia, and the "gun wallet" produced by a California firm unknown to me as of this writing.

Both weapons are equally abhorrent; however, the "gun wallet" is particularly insidious. How many times a day do our police officers across the country ask citizens to produce their driver's licenses—most of which are contained in wallets of one sort of another. How many police officers will die because they were unable to discern a "gun wallet" from a regular one; how many police officers will die because they were unable to spot a "belt buckle knife." I thought you would like to be apprised of these developments, and they prompt my asking this question: Does our free enterprise system include the right to produce weapons such as these?

If there is one thing we do not seem to need in this country it is more weapons—guns or knives. Unfortunately, the statistics support this position. As you know, the Federal Bureau of Investigation reported that during 1972 there were 12,260 deaths as the result of gunshot wounds. Of that number, 112 were law enforcement officers. An additional 6,260 persons were killed with "other weapons", the principle sub-category of which appears to be "knives or other sharp instruments".

I cannot help but wonder how many additional deaths will occur once the "belt buckle knife" and "gun wallet" are in wide circulation. There must be a solution to the problem posed in this letter. We would like to help you, in any way that we can, to find it.

Sincerely,

DAVID FOGEL,
Executive Director.

BELT BUCKLE KNIFE IS TWO-EDGED SWORD DEPENDING ON THE WIELDER

(By Roger H. Robinson)

The belt buckle knife recently introduced by the Bowen Knife Company of Atlanta,

Ga., is now available. It may be purchased by the general public at gun shops and sporting good stores as an item for sport and survival use.

However, because of its concealability, the buckle knife poses a threat to law enforcement and custodial officers.

On the other hand, it has a definite application in law enforcement if utilized as a part of an officer's personal equipment—either as a uniform on an off duty pant's belt. Most important, however, is that an officer be able to recognize these buckles if worn by a suspect or prisoner.

Definitely not a gadget, the Bowen Belt Knife is a high quality piece of cultery (retailing for $30 each) specifically designed for survival uses. It currently is offered in two blade styles: a single edge utility blade, and a double edged blade. The latter may be illegal in some jurisdictions where any double edged knife falls into the dirk or dagger category and is designated as a concealed weapon.

Both blades are well designed and are manufactured from high quality 440C stainless steel. The buckle handle or grip on both styles are identical; however, the single edge style does have a bottle opener incorporated into the inside rear edge of the buckle.

Fortunately or unfortunately, depending on who is the wearer, these knives are well concealed when worn and are not susceptible to discovery using normal search techniques. This could be a tremendous asset for the police officer who is in trouble, or conversely could pose a dangerous hazard if worn by a suspect. Although the potential hazard prompted the FBI to publish a warning in the January 1973 issue of the *FBI Bulletin*, they failed to point out either the merits of this knife as a useful piece of equipment for the Law Enforcement officer, or the points of difference which make its recognition simple.

These knives have an overall length of 5½ inches and are approximately ¼ inch thick at the thickest point. The grip measures 2 inches across the buckle and the blade is 2⅞ inches in length. There is a ⅝ inch shank between the buckle and blade which facilitates an effective grip on the knife.

The knife blade is sheathed laterally along the belt in a soft leather sheath stitched to the inside of the belt. The entire knife is curved slightly to fit the curvature of the body, and is affixed to the belt and buckled by means of a stainless steel stud located on the shank between the buckle and the blade.

THIS STUD IS THE KEY TO VISUAL IDENTIFICATION

The buckle does not have a typical buckle tongue and is offset to the rear or wearer's left. This leaves two empty buckle holes visible between the stud and the leading edge of the buckle; otherwise the belt has the outward appearance of a heavy and attractive dress belt in either black or brown leather.

Regarding the merits of the knife as an addition to a police officer's personal equipment, the Bowen Belt Knives were field tested both as a dress belt and as a uniform belt under a gun belt to test for comfort and possible hazards to the wearer from the knife cutting through the sheath, etc.

The knives were found to be extremely comfortable even though they were worn during strenuous activities.

The next test was to determine how many of my colleagues would spot the knife. I knew that the majority had seen the warning in the *FBI Bulletin*. The uniform of the day in my present position is a suit, so the belts were worn in the open as a pant's belt, the majority of the time in the office without a coat. After two weeks of constant wear, I raised the subject of the buckle knife. One individual said that he had seen the warning and would certainly recognize one if seen. The subject was dropped and after one more week was again raised. It was obvious that recognition of the belt knife was not easy.

As a tool for the police officer, the belt knife may be the answer to the not unusual situation where a knife is needed immediately. The first occasion that I needed a knife was an experience that I wouldn't want to repeat. It was late on the 4–12 shift and as a new deputy sheriff was doing my time in the maximum security section of the county jail. I had just begun a tour of the above cell catwalk when I saw a towel looped through the ceiling grate of one of the cells.

Upon reaching the cell, I could see the prisoner slowly strangling in an attempted suicide. My pocket knife, which at that time was a $1.50 special used primarily for such chores as cleaning my fingernails, was out and sawing at the towel. It was so dull that I thought it would never cut through. Finally the towel parted and the prisoner hit the deck with a thud. After several minutes of artificial respiration, he came out of it and was alright but since that time I've carried a good knife, with a razor sharp blade.

FAST DRAW ON THE WALLET MAY PRODUCE BULLETS INSTEAD OF BILLS, POLICE WARN

"When he reaches for his wallet, you may get more than his license," warns the Seattle Police Department's monthly newspaper.

According to the department news item, a California company has been advertising a new "gun wallet". The weapon looks and feels like a wallet, but instead of cards and cash it carries a high-standard derringer that fires two .22 magnum or long slugs.

A finger hole provides access to the trigger and the user can reach for his wallet, then commence firing, the article stated. The News warned that although the weapon is advertised as being sold to law enforcement agencies, there is a danger that it will find its way into "unfriendly hands" and warns officers to be watchful for this type of disguised lethal weapon.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1974

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 11221, which the clerk will state.

The assistant legislative clerk read as follows:

H.R. 11221, a bill to provide for deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Depository Institutions Amendments of 1974".

TITLE I—AMENDMENTS TO AND EXTENSIONS OF PROVISIONS OF LAW RELATING TO FEDERAL REGULATION OF DEPOSITORY INSTITUTIONS

INCREASE IN FEDERAL DEPOSIT INSURANCE CORPORATION INSURANCE CEILING

SEC. 101. (a) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$20,000" and inserting in lieu thereof "$25,000":

(1) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(2) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(3) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(4) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(b) The amendments made by subsection (a) take effect upon the expiration of sixty days following the date of enactment of this Act and do not apply to any claim arising out of the closing of a bank prior to the date on which such amendments take effect.

INCREASE IN FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INSURANCE CEILING

SEC. 102. (a) The following provisions of title IV of the National Housing Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$25,000":

(1) Section 401(b) (12 U.S.C. 1724(b)).

(2) Section 405(a) (12 U.S.C. 1728(a)).

(b) The amendments made by subsection (a) take effect upon the expiration of sixty days following the date of enactment of this Act do not apply to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the date on which such amendments take effect.

INCREASE IN NATIONAL CREDIT UNION ADMINISTRATION INSURANCE CEILING

SEC. 103. (a) The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$20,000' and inserting in lieu thereof "$25,000".

(b) The amendment made by subsection (a) takes effect upon the expiration of sixty days following the date of enactment of this Act and does not apply to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the date on which such amendment takes effect.

CHANGE IN NAME OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 104. (a) Section 402(a) of the National Housing Act, as amended (12 U.S.C. 1725(a)), is amended to read as follows:

"(a) The Federal Savings and Loan Insurance Corporation is redesignated as the Federal Savings Insurance Corporation (hereinafter referred to as the 'Corporation') and references in this title and in any other law to the Federal Savings and Loan Insurance Corporation shall be deemed to be references to the Corporation. The Corporation shall insure the accounts of institutions eligible for insurance as hereinafter provided. The Corporation shall be under the direction of the Federal Home Loan Bank Board and is authorized to issue such rules, regulations, and orders as it may deem necessary or appropriate to enable it to administer and carry out the purposes of this title and to require compliance therewith and prevent evasions thereof. The principal office of the Corporation shall be in the District of Columbia.".

(b) Subsection (d) of section 2 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1462(d)), is amended to read as follows:

"(d) The term 'association' means a Federal Savings and Loan Association or Federal Savings Association chartered by the Board under section 5 of this Act, and any reference in any law to a Federal Savings and Loan Association shall be deemed to be also a reference to a Federal Savings Association.".

(c) Subsection (a) of section 403 of the

National Housing Act, as amended (12 U.S.C. 1726(a)), is amended by inserting before the comma after "Federal savings and loan associations" the words "and Federal savings associations".

CONVERSION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 105. (a) Section 403(b) of the National Housing Act, as amended (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following new sentence: "As used in this subsection the term 'reserves' shall, to such extent as the Corporation may provide, include capital stock and other items, as defined by the Corporation.".

(b) Section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 781(i)), is amended to read as follows:

"(i) In respect of any securities issued by banks the deposits of which are insured in accordance with the Federal Deposit Insurance Act or institutions the acounts of which are insured by the Federal Savings and Loan Insurance Corporation, the powers, functions, and duties vested in the Commission to administer and enforce sections 12, 13, 14 (a), 14(c), 14(d), 14(f), and 16(1) with respect to national banks and banks operating under the Code of Law for the District of Columbia are vested in the Comptroller of the Currency, (2) with respect to all other member banks of the Federal Reserve System are vested in the Board of Governors of the Federal Reserve System, (3) with respect to all other insured banks are vested in the Federal Deposit Insurance Corporation, and (4) with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation are vested in the Federal Home Loan Bank Board. The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall have power to make such rules and regulations as may be necessary for the execution of the functions vested in them as provided in this subsection and none of the rules, regulations, forms, or orders issued or adopted by the Commission shall be in any way binding upon such officers and agencies in the performance of such functions, or upon any such banks or institutions in connection with the performance of such functions.".

(c) Paragraph (5) of subsection (1) of section 407 of the National Housing Act, as amended (12 U.S.C. 1730(1)(5)), is amended by inserting after "disclosures" a comma and the following: "including proxy statements and the solicitation of proxies thereby,".

(d) Subsection (j) of section 402 of the National Housing Act, as amended (12 U.S.C. 1725(j)), is amended to read as follows:

"(j)(1) Except as provided in paragraphs (2) and (3), until June 30, 1976, the Corporation shall not approve, under regulations adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933, by order or otherwise, a conversion from the mutual to stock form of organization involving or to involve an insured institution, except that this sentence shall not be deemed to limit now or hereafter the authority of the Corporation to approve conversions in supervisory cases. The Corporation may by rule, regulation, or otherwise and under such civil penalties (which may be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

"(2) After December 31, 1973, the Corporation may approve any application submitted for filing prior to May 22, 1973, pursuant to regulations in effect and adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933: Provided, That, with respect to a plan of conversion of any such applicant which, before May 22, 1973, has given written public notice to its accountholders of adoption of a plan of conversion or has obtained waiver forms from substantially all its new accountholders subsequent to the giving of such notice, such plan need not require payment for stock distributed to accountholders as of a record date prior to the date of such notice.

"(3) After June 30, 1974, the Corporation may approve in accordance with such regulations on a test basis not more than twenty-three applications for such conversion: *Provided*, That the Corporation may also approve a number of applications for such conversion from insured institutions in a State which enacts legislation authorizing such conversions subsequent to May 22, 1974, not in excess of 1 per centum of the number of insured institutions in such State, or, in the case of such a State which has less than 100 insured institutions, the Corporation may approve one application for conversion. Notwithstanding any other provision of law, an insured institution converting in accordance with this subsection may retain its Federal charter. Notwithstanding the foregoing, the Corporation shall not permit the conversion of federally chartered institutions in States the laws of which do not authorize the chartering of State stock associations.".

MORATORIUM ON CONVERSION OF FEDERAL DEPOSIT INSURANCE CORPORATION INSURED INSTITUTIONS

SEC. 106. Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end thereof the following new subsection:

"(10) Until June 30, 1976, the responsible agency shall not grant any approval required by law which has the practical effect of permitting a conversion from the mutual to the stock form of organization, including approval of any application pending on the date of enactment of this subsection, except that this sentence shall not be deemed to limit now or hereafter the authority of the responsible agency to grant approvals in cases where the responsible agency finds that it must act in order to maintain the safety, soundness, and stability of an insured bank. The responsible agency may by rule, regulation, or otherwise and under such civil penalties (which shall be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection."

EXTENSION OF FLEXIBLE REGULATION OF INTEREST RATES AUTHORITY

SEC. 107. (a) Section 7 of the Act of September 21, 1966 (Public Law 89–597), is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1975".

(b) In carrying out their respective authorities under the amendments made by the Act of September 21, 1966 (Public Law 89–597), the Federal supervisory agencies shall give due consideration to existing market interest rates, so that consumer savers receive a fair and appropriate rate of interest on their savings. Nothing in this subsection shall be construed to preclude such agencies from establishing different rate ceilings for the institutions subject to their jurisdiction.

INCREASE DOLLARS LIMITATION ON THE COST FOR CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

SEC. 108. The ninth paragraph of section 10 of the Federal Reserve Act, as amended (12 U.S.C. 522), is amended by striking out "$60,000,000" and inserting in lieu thereof "$140,000,000".

PURCHASE OF UNITED STATES OBLIGATIONS BY FEDERAL RESERVE BANKS

SEC. 109. (a) Section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is amended by striking out "November 1, 1973" and inserting in lieu thereof "November 1, 1975" and by striking out "October 31, 1973" and inserting in lieu thereof "October 31, 1975".

SUPERVISORY AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM OVER BANK HOLDING COMPANIES AND THEIR NONBANKING SUBSIDIARIES

SEC. 110. Subsection (b) of section 8 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(b)), is amended by adding at the end thereof the following new paragraph:

"(3) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a holding company, as those terms are defined in the Bank Holding Company Act of 1956, in the same manner as they apply to a State member insured bank."

EXTENSION OF SAVINGS AND LOAN HOLDING COMPANY AUTHORITY TO PARENT AND SUBSIDIARY COMPANIES

SEC. 111. Section 407(e) of the National Housing Act, as amended (12 U.S.C. 1730(e)), is amended by adding at the end thereof the following new paragraph:

"(3) This subsection and subsections (f), (j), (k)(2), (m)(3), (n), (o), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, in the same manner as they apply to an insured institution."

INDEPENDENCE OF FINANCIAL REGULATORY AGENCIES

SEC. 112. No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.

INCREASE IN AUTHORITY OF THE TREASURY TO PURCHASE FEDERAL HOME LOAN BANK OBLIGATIONS

SEC. 113. Subsection (i) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1431 (i)), is amended as follows:

(1) In the fourth sentence of the first paragraph, strike out "subsection" both places it appears and insert in lieu thereof "paragraph".

(2) In the second paragraph, strike out "The authority provided in this subsection" and insert in lieu thereof "In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligation issued pursuant to this section in amounts not to exceed $3,000,000,000. The authority provided in this paragraph shall expire on August 10, 1975, and".

(3) In the second paragraph, strike out "Home Loan Bank Board" and insert in lieu thereof "Federal Home Loan Banks".

COMPLIANCE WITH STATE LAW

SEC. 114. (a) No rule, regulation, or order issued by a Federal supervisory agency shall prevent or be interpreted to exempt any federally chartered financial institution from complying with any State law or regula-

tion which protects borrowers by establishing limitations on the terms and conditions which may be imposed on borrowers in connection with a mortgage loan contract or consumer credit contract including, but not limited to, interest rate adjustment clauses, prepayment penalty charges, acceleration clauses, late payment charges, default notices, attorney fees, or maximum interest charges unless the authority to issue such rule, regulation, or order with respect to a particular term or condition is authorized under Federal law by language specifically granting such authority affirmatively and not merely by implication or recognition. Nothing in this section shall preclude a Federal supervisory agency from using its regulatory authority to impose limitations on a particular term or condition of a mortgage loan contract or consumer credit contract made by a federally chartered financial institution which affords the borrower greater protection than he would otherwise obtain under applicable State law or the regulations thereunder.

(b) As used in this section—

(1) the term "Federal supervisory agency" means—

(A) the Comptroller of the Currency with respect to national banks and district banks;

(B) the Federal Home Loan Bank Board with respect to Federal savings and loan associations;

(C) the National Credit Union Administration with respect to Federal credit unions;

(2) the term "federally chartered financial institution" means a national or district bank, a Federal savings and loan association or a Federal credit union;

(3) the term "mortgage loan contract" means a loan secured by a mortgage or residential real property designed principally for the occupancy of from one to four families, but also including residential properties sold as condominiums and cooperatives regardless of size; and

(4) the term "consumer credit contract" means a contract subject to the disclosure requirements imposed under the Truth In Lending Act (15 U.S.C. 1601).

AUTHORITY OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE MORTGAGES FROM STATE INSURED INSTITUTIONS

SEC. 115. The first sentence of section 305 (a) (1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting "or from any financial institution the deposits or accounts of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 per centum of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that State" immediately after "agency of the United States".

TITLE II—NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

ESTABLISHMENT

SEC. 201. There is established the National Commission on Electronic Fund Transfers (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States.

MEMBERSHIP

SEC. 202. (a) The Commission shall be composed of twenty members as follows:

(1) the Chairman of the Board of Governors of the Federal Reserve System or his designate;

(2) the Secretary of the Treasury or his designate;

(3) the Comptroller of the Currency or his designate;

(4) the Chairman of the Federal Home Loan Bank Board or his designate;

(5) the Administrator of the National Credit Union Administration or his designate;

(6) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation or his designate;

(7) the Chairman of the Federal Trade Commission or his designate;

(8) one individual, appointed by the President, who is an official of a State agency which regulates banking thrift, or similar financial institutions;

(9) six individuals, appointed by the President, who are officers or employees, of, or who otherwise represent banking, thrift, or other business entities including retailers, including one representative each of commercial banks, mutual savings banks, savings and loan associations, credit unions, retail users of electronic fund transfer systems, and nonbanking institutions offering credit card services; and

(10) six individuals, appointed by the President, from private life who are not affiliated with, do not represent and have no substantial interest in any banking, thrift, or other financial institution, including but not limited to credit unions, retailers, and insurance companies.

(b) The President shall appoint a Chairperson of the Commission from among the members of the Commission by and with the advice and consent of the Senate unless the appointee already holds an office to which he was appointed by and with the advice and consent of the Senate. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

FUNCTIONS

SEC. 203. (a) It shall be the function of the Commission to conduct a thorough study and investigation and to recommend appropriate administrative action and legislation necessary in connection with the possible development of public or private electronic fund transfers systems, taking into account, among other things—

(1) the need to preserve competition among the financial institutions and other business enterprises using such a system;

(2) the need to prevent unfair or discriminatory practices by any financial institution or business enterprise using or desiring to use such a system;

(3) the need to afford maximum user and consumer convenience;

(4) the need to afford maximum user and consumer rights to privacy and confidentiality;

(5) the impact of such a system on economic and monetary policy;

(6) the implications of such a system on the availability of credit;

(7) the implications of such a system expanding internationally and into other forms of electronic communications; and

(8) the need to protect the legal rights of users and consumers. In carrying out its function, the Commission shall consult with and obtain the advice of the Attorney General with respect to the competitive and antitrust implications of electronic fund transfer systems.

(b) The Commission shall establish a clearinghouse for information on or relating to electronic funds transfer systems for the public, President, and Congress.

(c) The Commission shall make an interim report within one year of its findings and recommendations as it deems advisable and shall transmit to the President and to the Congress not later than two years after the date of enactment of this title a final report of its findings and recommendations. Any such report shall include all hearing transcripts, staff studies, and other material used in preparation of the report. The interim and final reports shall be made available to the public upon transmittal. Sixty days after transmission of its final report the Commission shall cease to exist.

(d) The Commission shall not be required to obtain the clearance of any Federal agency prior to the transmittal of any interim or final report.

ADMINISTRATION

SEC. 204. (a) The Commission—

(1) may appoint with the advice and consent of the Senate and may fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title;

(2) may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code but at rates not to exceed $150 a day for individuals;

(3) shall conduct and transcribe open public hearings at such times and places and otherwise secure such information as may be necessary to the performance of its functions.

(b) The Comptroller General is authorized to make a detailed audit of the books and records of the Commission, and shall report the results of such audit to the Commission and to the Congress.

COMPENSATION

SEC. 205. (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate of $150 per day when engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 206. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request, such data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

(b) The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Commission may request to assist it in carrying out its functions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There are authorized to be appropriated without fiscal year limitations such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this title.

Mr. McINTYRE. Mr. President, I yield 30 seconds to the distinguished majority whip.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are ordered prior to the hour of 12 o'clock noon today, they not occur until the hour of 12 o'clock noon.

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

Mr. ROBERT C. BYRD. This will allow committees to meet without interruption.

The PRESIDENT pro tempore. The time for debate on this bill shall be limited to 1 hour, to be equally divided between and controlled by the Senator from New Hampshire (Mr. McINTYRE) and the Senator from Texas (Mr. TOWER), with 30 minutes on any amendment, except an amendment to be offered by the Senator from Wisconsin (Mr. PROXMIRE), on which there shall be 1 hour's debate, with 10 minutes on any amendments in the second degree, debatable motions, or appeals.

Mr. McINTYRE. Mr. President, during the consideration of H.R. 11221, I ask unanimous consent that the following staff members of the Committee on Banking, Housing, and Urban Affairs be permitted the privilege of the floor: Pat Abshire, Howard Beasley, Carl Coan, Anthony Cluff, Carolyn Jordan, Kenneth McLean, T. J. Oden, Stephen Paradise, Dudley O'Neal, and Jerry Buckley.

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

Mr. McINTYRE. Mr. President, the bill now pending before the Senate, H.R. 11221, entitled the Depository Institutions Amendments of 1974, is a proposal containing a number of sections, many of which relate directly to the scope of Federal regulatory authority over institutions and the manner in which the institutions themselves function in our country.

The Subcommittee on Financial Institutions, of which I am chairman, and the full committee itself, has spent considerable time and effort in both hearings and executive session in developing a comprehensive piece of legislation which we think represents a balanced approach in dealing with a number of difficult issues.

This bill as originally passed by the House dealt with basically two subjects: First, an increase in Federal deposit insurance and, second, total deposit insurance on local, State, and Federal Government funds deposited in federally insured institutions The committee has substantially amended the House-passed bill, H.R. 11221, and included several proposals also incorporated in other bills that have either passed the House of Representatives or are presently awaiting floor action by the House.

Basically, the bill before us today contains the following provisions:

First, an increase in the present rate of Federal deposit insurance for those financial institutions participating in this program from $20,000 to $25,000. Historically, Federal deposit insurance has been increased in amounts of $5,000, and the committee believes that in view of the fact that the last increase was in 1969, a further increase is necessary and appropriate at this time.

Second, the bill would change the name of the Federal Savings & Loan Insurance Corporation, which is the insurance fund administered by the Federal Home Loan Bank Board, to the Federal Savings Insurance Corporation. This action was taken by the committee in view of the fact that the Corporation, in fact, does not insure loans, but only savings accounts. This proposal has been made on numerous occasions so as not to mislead individuals on Federal deposit insurance.

Third, a provision in the bill extends until June 30, 1976, a legislative moratorium on conversions that was first imposed last year. While the moratorium is extended, there is also a provision to allow a limited number of conversion test cases to proceed so that Congress may have the opportunity of an actual experience on how conversions of savings and loans take place. This issue revolves around the present structure of our saving and loan industry. By law, federally chartered savings and loan associations must be mutual in form. At least 22 States, however, provide for capital stock savings and loan associations and also allow mutual savings and loans to convert to stock form. A number of questions have been raised as to the ability of allowing mutual to stock conversions to take place on an equitable basis. The committee recognized this concern and decided to take a course of action providing for a limited experiment over the next 2 years. When the present conversion moratorium was passed last year, Congress provided for a small number of conversions to take place under rules and regulations issued by the Federal Home Loan Bank Board.

As of this date, no conversion has been approved by the Board. However, the Board does strongly favor conversion legislation and feels that they are capable of regulating and monitoring conversions so that they take place on an equitable basis. The committee felt that a limited experiment would provide a practical basis to determine whether conversion is in the public interest, but in doing so recognized that there are potential dangers involved in such activity and that they must be closely supervised by the Federal Home Loan Bank Board.

Fourth, the bill also extends a moratorium on conversion of banks insured by the Federal Deposit Insurance Corporation. This moratorium is also for 2 years, and the committee felt that such action was consistent with the position taken with regard to conversions of savings and loan associations. The basic purpose is to provide a brief moratorium on the conversion of mutual savings banks to commercial banks in that the committee is presently considering legislation that would substantially alter the structure and regulation of our financial institutions. One such provision in the legislation being presently considered is the proposal to provide Federal chartering to mutual savings banks.

Fifth, Federal regulatory authority to set flexible interest or dividend rate maximums on time or savings deposits of financial institutions has been extended for 1 year. The present Federal authority over interest rates expires December 31, 1974.

While this expiration date is still several months away, this would be the only extension of present legislative authority that would not be dealt with if not included in this bill. Therefore, the committee decided to provide for a 1-year extension at this time until December 31, 1975. The bill would also amend Federal interest and dividend rate authority to provide that Federal supervisory agencies shall give consideration to existing market interest rates in establishing ceilings to assure consumer savers a fair return on their savings funds. This was done by the committee in view of our present economic climate and was based on the feeling that unreasonably low interest rate ceilings could be counterproductive. The amending language also makes it clear, however, that Federal supervisory agencies administering interest rate authority are not precluded from establishing different rate ceilings for the institutions subject to their jurisdiction. Since the passage of flexible interest rate authority in 1966, there has been an historical differential on savings rates paid by thrift institutions and by commercial banks. The committee does not intend that the amending language be interpreted to alter this historic rate differential among different types of financial institutions.

Sixth, another section of the bill would increase the present dollar limitation on Federal Reserve Branch bank building construction authority from $60 to $140 million. The present limitation for construction of buildings has been virtually exhausted, and new buildings are needed to permit the Reserve banks to efficiently perform their services.

As the economy has grown, the workload of Federal Reserve banks has also expanded. Based on current estimates, the increase in the authorization by $80 million would meet the Fed's construction needs through 1977. At present, the Federal Reserve is contemplating the construction of branches in Baltimore, Md.; Charlotte, N.C.; Omaha, Nebr.; and Los Angeles, Calif.

Seventh, the bill also contains a section authorizing the purchase of U.S. obligations by the Federal Reserve banks. This would renew until October 31, 1975, the authority of the Federal Reserve banks to purchase directly from the Treasury public debt obligations up to a limit of $5 billion outstanding at any one time. This authority has been infrequently used in recent years, normally in periods just prior to tax payments dates. Its existence permits the department to operate with considerably lower cash balances than would *otherwise* be required.

Eighth, sections of the legislation before us today would also amend existing law to provide the Federal Reserve Board and the Federal Home Loan Bank Board with expanded cease-and-desist powers over the operations of parent holding companies of bank and savings and loan holding companies. This cease-and-desist authority would also apply to nonfinancial institution subsidiaries of the parent holding company. The purpose is to remedy a present supervisory deficiency over the regulation of holding company operations.

The committee was informed by the Federal Reserve Board and the Federal Home Loan Bank Board of situations where the actions of a parent holding company or its subsidiaries constituted a serious threat to the safety, soundness, or stability of a subsidiary financial in-

stitution. The committee feels that this cease and desist authority is necessary to aid in preventing or terminating practices which might result in damage to depositories or to public confidence in our financial system. The committee, however, expects that the Federal agencies will not use this authority to interfere unduly in the affairs of nonbanking subsidiaries.

Ninth, the proposed legislation also contains language clarifying existing law to provide that no Government official may require the Securities and Exchange Commission or the independent banking regulatory agencies to submit for prior approval or review their legislative recommendations, testimony, or comments to the Congress. A similar provision was included in the law creating the Consumer Product Safety Commission. This section, however, contains language requiring that the agency include in its recommendations for testimony a statement indicating that the views expressed are those of the agency and do not necessarily represent those of the President or his administration. The purpose of this section is to preserve and strengthen the independence of these agencies.

Tenth, the bill also contains a section which would increase by $3 billion the discretionary authority of the Secretary of the Treasury to purchase Federal Home Loan Bank obligations. This authority was originally established by Congress in 1950 at a figure of $1 billion and in 1969 was increased to $4 billion. The increase contained in the bill presently before the Senate is in recognition of the expanded authorities of the Federal Home Loan Bank system and of its support to the presently distressed condition of our national housing market. This amendment is a temporary increase, and it should be noted that the authority is discretionary with the Secretary of the Treasury.

Eleventh, an amendment was also included in the proposed bill, the purpose of which is to make it clear that Federally chartered financial institutions are subject to certain State consumer protection laws. It would provide that no rule, regulation, or order issued by the Federal Home Loan Bank Board, the Comptroller of the Currency, or the National Credit Union Administration shall exempt a federally chartered institution from complying with any State law or regulation which protects borrowers by limiting the terms and conditions of a mortgage loan or consumer credit contract. The amendment would provide, however, that federally chartered institutions can be exempt from State law in those instances where Congress itself specifically grants an exception.

Twelfth, H.R. 11221 as amended by the committee would also expand the powers of the Federal Home Loan Mortgage Corporation by authorizing the purchase of residential mortgages from State-insured institutions if the total amount of time and savings deposits in such institutions represent more than 20 percent of all such deposits in that State. This amendment specifically applies to the State of Massachusetts where for historical reasons mutual savings banks have had their deposits insured by the Massachusetts Central Insurance Fund rather than by Federal insurance. This provision would allow the Federal Home Loan Mortgage Corporation to purchase conventional mortgages on newly constructed homes at below market interest rates. This authority is presently available in most States except Massachusetts and the amendment would make it possible for residents of that State to participate in this program.

Thirteenth, title II of the proposed bill would establish a National Commission on Electronic Fund Transfers. This Commission would be composed of 20 members appointed by the President and would include the representatives of Federal and State agencies having legislative jurisdiction over financial transactions; various segments of the financial and business sectors of our economy; and private individuals representing the public and consumers. The function of this Commission is to conduct a thorough study and investigation over a 2-year period of electronic fund transfers systems and to recommend appropriate administrative action and legislation concerning primarily the preservation of competition, user and consumer convenience, rights to privacy and confidentiality, and the protection of legal rights of users and consumers.

The committee provided an authorization for appropriations not to exceed $2 million during the life of the Commission.

In adopting this proposal, the committee recognized attempts by industry to apply modern computer and communications technology to the transfer of money. Experimental programs and pilot projects are already in progress in various locations throughout the country. These pilot programs make it available for individuals to handle their monetary affairs electronically, and this development has sometimes been referred to as the "cashless" or "checkless" society. In approving this Commission, the committee recognized that the concept of electronic fund transfers poses a number of questions which must be resolved before any rational decisions can be made and that ultimately the answers to these questions must be resolved by Congress.

The committee is concerned that without sufficient study electronic fund transfers development could result in distortions to competition and the invasion of individual citizen's right to privacy and confidentiality.

As I think Senators can see, the bill contains a large number of separate issues dealing with both the structure and regulation of our national financial system.

In closing, I wish to express my appreciation to my colleagues on the committee, and I urge the approval of this legislation by the Senate.

There being no objection, the excerpts from the committee report (No. 93-902) were ordered to be printed in the RECORD, as follows:

Mr. McINTYRE. Mr. President, I ask unanimous consent that excerpts from the committee report 93-902 be printed in the RECORD.

HISTORY OF LEGISLATION

The Subcommittee on Financial Institutions held hearings on March 19-21 on three bills: H.R. 11221 as passed by the House, Title I of S. 2735, and S. 2640. These three bills contain provisions providing for an increase in Federal deposit insurance from its present limit of $20,000 to $50,000 and would also have provided for full deposit insurance on government funds deposited in Federally-insured institutions.

The Subcommittee on April 8-10 also held hearings on two bills, S. 3132 and S. 3224, providing among other matters for the conversion of mutual savings and loan associations to stock form of ownership.

During hearings held on S. 2591, the Financial Institutions Act of 1973, during the week of May 13-17, the Subcommittee considered in conjunction with those hearings S. 3266, a bill to establish a National Commission on Electronic Funds Transfers.

During the Subcommittee's legislative consideration of the various proposals before it, the individual bills were consolidated into a Committee print that after Full Committee action was incorporated as an amendment into the House-passed bill, H.R. 11221.

The Committee, after deliberation, agreed by a majority to report the bill as amended to the Senate.

FEDERAL DEPOSIT INSURANCE

Sections 101, 102, and 103 of the bill would increase Federal deposit insurance from the present maximum of $20,000 to $25,000. Three federal agencies, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration, each of which administer separate deposit insurance funds are involved. The effective date for the insurance increase as provided in the bill would be 60 days after enactment.

Throughout the history of Federal deposit insurance, most increases in the insurance level have been in the amount of $5,000. The Committee believes in view of the fact that the last increase was in 1969 that a further increase is necessary at this time in order to compensate for the effect inflation has had during the last five years.

A further reason for an increase in Federal deposit insurance at this time is the belief on the Subcommittee's part that a Federal deposit insurance increase would have a positive impact on encouraging citizens to increase their savings.

Given the present economic conditions in the country, Federal actions that would encourage additional savings would in the Committee's opinion provide an additional stabilizing influence.

CHANGE IN NAME OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Section 104 of the bill would amend the National Housing Act to change the name of the Federal Savings and Loan Insurance Corporation to the Federal Savings Insurance Corporation.

The Committee took this action in view of the fact that the Federal Savings and Loan Insurance Corporation only insures savings accounts and not loans.

The proposal has been made on numerous occasions that this action be taken so as not to mislead individuals with respect to Federal deposit insurance.

CONVERSION OF SAVINGS AND LOAN ASSOCIATIONS FROM MUTUAL TO STOCK FORM OF OWNERSHIP

Section 105 is designed to provide for a test program for conversion of mutual savings and loan associations to stock savings and loan associations. The thrust of this section is to allow for at least 30 experimental test cases for the period prior to June 30, 1976. The moratorium on conversions other than the test cases is continued for 2 years until June 30, 1976.

Section 105(a) provides that the term "reserves" shall include capital stock and other items as defined by the corporation in order to facilitate the creation of a Federal *stock* savings and loan. Currently all Federal savings and loan associations must be of mutual ownership and hence there has been no need for the term "reserves" to encompass capital stock since mutual institutions do not have capital stock.

Section 105(b) and (c) transfer the responsibility for regulation of securities issued by institutions insured by the Federal Savings and Loan Insurance Corporation from the Securities and Exchange Commission to the Federal Home Loan Bank Board. At the present time, the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency have this responsibility for their respective institutions.

Section 105(a) provides for a 2-year continuation of the moratorium on conversions except for a limited number of test cases. Those test cases may include: (a) those institutions that had submitted an application and in certain instances had given written notice to its account holders prior to May 22, 1973; (b) a total of not more than 23 applications from the 22 states[1] that currently provide for conversions; and (c) a number of conversions from states which enact legislation authorizing such conversions to take place subsequent to May 22, 1974 with the total number of converting institutions from any such state not to exceed 1% of the number of insured institutions in that state or 1 institution, whichever is greater. (The Committee intends that this 1% figure be interpreted by the Board to be rounded to the nearest whole number of potential conversions allowable in administering this provision.) The Committee's reason for including this provision in subsection (d) (3) is to make sure that institutions in states that subsequent to enactment of this provision permit conversions to take place would be given an opportunity to participate in the conversion experiment. The Committee understands that there are at least two states that are presently taking action to permit conversions. The State of Florida has acted on legislation that would provide for conversions commencing January 1, 1975, and the State of New Jersey is presently considering the adoption of conversion legislation. This provision would provide the opportunity for institutions located in such states as New Jersey and Florida also to be able to convert on an experimental basis.

The Committee recognizes that the problems inherent in the conversion from a mutual form of organization to a stock form are substantial. The Committee, however, believes that there are practical limits to the extent of theoretical study of the problem without actual experience. The Committee does not think it appropriate to open the flood gates of conversion nor does it think it appropriate to continue to prohibit any and all conversions. The Committee, therefore, has taken the position that a limited number of conversions in a controlled atmosphere appears to be the most appropriate way to learn as much as possible about the problems of conversions and the techniques available to deal with such problems.

The Committee expects the Federal Home Loan Bank Board to pursue these conversion cases in such a framework so as to provide the most useful information possible with respect to conversions. In issuing regulations and in accepting applications the Committee also expects the Board to be as innovative and experimental as is consistent with constitutional due process requirements and property rights. Furthermore, consistent with these rights, the Committee expects the Board to adopt a flexible approach in the manner in which conversions are approved. The Committee bill does not require any conversions to take place, but only authorizes a limited number of test cases which may be approved by the Federal Home Loan Bank Board based on the merits of each application.

During hearings on this topic and in the markup sessions, the Subcommittee and Committee discussed the various known techniques by which mutual associations could convert from their mutual form to a stock form. The techniques generally seemed to fall within 4 categories:

1. A free distribution of stock equivalent to the value of the reserves to the depositors or shareholders of the institution:

2. Sale of stock to its depositors and general public equal to the estimated market value of the reserves with the proceeds going to the new corporation;

3. Donation of the accumulated reserves or market value of the institution to a public trust; and

4. A combination of the above methods.

Rather than specifying the various methods under which the Board could allow conversion, the Committee has provided the Board with the flexibility to structure its own approaches. But the Committee expects the Board to experiment and encourage innovative approaches so as to obtain the most comprehensive experience consistent with constitutional rights not only of the converting institution but also of other institutions affected by such conversion. [The Committee does not wish any method to be precluded from consideration to applications regardless of their conversion plan. This is not to mean that the Committee condones an unjust enrichment by any individual from conversion.] It expects the Board to make every effort to provide equity for all concerned while avoiding the potential hazards of unjust enrichment through possible "inside" manipulation or "outside" raiding.

The Committee expects the Board to evaluate the various conversion applications not only for their equity with respect to the distribution of reserves, but also for the purpose of taking into consideration the need to achieve via these test cases the greatest practical experience possible. In order for Congress to benefit by the limited experiment the Committee believes that the Board, in approving plans of conversion, should attempt to achieve the following: (1) as much geographical dispersion as possible; (2) an equitable distribution with respect to the sizes of the converting institutions; (3) an appropriate distribution between the State chartered and Federally chartered institutions authorized to convert; (4) flexibility to the extent possible in the manner in which institutions are allowed to convert; (5) the most efficient method for attracting additional capital for institutions in dire need for such capital; and (6) conversion procedures which are best suited to the characteristics of the particular converting institutions during this experimental period; and (7) a form of conversion providing maximum protection to the depositors.

In this regard, the Committee believes that the Bank Board should give priority treatment to approving or disapproving conversion applications of the associations submitting applications prior to May 22, 1973, the date Congress adopted the statutory moratorium now in existence. [These associations offer Congress a further opportunity to examine what occurs when savings and loan associations are allowed to convert under a free distribution procedure.] The Board's early consideration of those applications is appropriate in view of certain actions taken by those associations prior to May 22, 1973; the effective date of the present statutory moratorium.

Under the language adopted by the Committee, those associations which (1) had submitted applications with the Board prior to May 22, 1973, and (2) had given either written public notice to their account holders that such a plan of conversion had been adopted, would be permitted to convert under a procedure which allows for the free distribution of stock to its depositors. It is the Committee's understanding that there are at least three associations which may so qualify. They are: First Federal Savings and Loan Association of Phoenix, Arizona; Prudential Federal Savings of Salt Lake City, Utah; and Tucson Federal Savings and Loan Association of Tucson, Arizona.

Each of these associations would be allowed to covert under the free distribution procedure. These associations had taken certain public actions, provided for in this section, regarding plans of conversion adopted by them and submitted to the Board prior to May 22, 1973. These public actions have given rise to reliance and expectations on the part of the account holders of these associations, and the Committee does not believe it is appropriate for the Congress to frustrate these expectations.

These plans of conversion were submitted to the Board at a time when the Board's regulations required conversions to occur on a free distribution basis. When the Congress adopted the statutory moratorium provisions last year, it provided therein for a shorter moratorium to be applicable to the associations submitting applications prior to May 22, 1973. This shorter moratorium expired on December 31, 1973, and it was anticipated that these applications would be processed shortly thereafter. The Board, however had altered its regulations to require conversions to occur on the basis of the priority sale of stock to eligible account holders and the establishment of a liquidation account. In view of these circumstances, the Committee believes that it would be appropriate to allow these associations to convert in accordance with plans of conversion intended to be in compliance with the regulations in effect when their applications were submitted for filing.

The other associations which the Committee understands had submitted applications prior to May 22, 1973, would also be allowed to convert under the language adopted by the Committee. The Committee understands that these associations are: Capital Savings and Loan Associations, Olympia, Washington; Franklin Savings Association, Austin, Texas; Standard Savings Association, Houston, Texas; and Sweetwater Savings Association, Sweetwater, Texas.

It was the Committee's understanding that these associations wished to convert under the Board's new regulations. However, it is not the Committee's intention to restrain the Board from allowing those associations to convert under any modified plan which would be appropriate in their case. Indeed, in their instance, as in the case of the other 23 "test conversions" in the 22 states which now allow stock charters, and the other test conversions as provided for in this section of the bill, the Committee encourages the Board to be as flexible and innovative as possible in allowing those associations to convert under procedures which are appropriate to their particular situation.

The Committee expects the Board to evaluate continuously and report to Congress on a periodic basis the successes of the various conversions undertaken and submit a final report to the Committee prior to the expiration of the moratorium, June 30, 1976.

[1] The Committee understands that these states are: Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Kansas, Michigan, Mississippi, Montana, Nevada, New Mexico, Ohio, Oregon, South Dakota, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

MORATORIUM ON CONVERSION OF FEDERAL DEPOSIT INSURANCE CORPORATION INSURED INSTITUTIONS

Sec. 106 of the bill would amend the Federal Deposit Insurance Act to provide that until June 30, 1976, Federal regulatory agencies shall not grant approval of any application or proposal from an insured bank which has the practical effect of permitting a conversion from mutual to stock form of organization.

This section, however, grants authority to the responsible Federal agencies to allow an organizational change to take place if the responsible agency finds that this action is necessary in order to protect the safety, soundness, and stability of the insured bank.

The purpose for this section is to provide a brief moratorium on the conversion of mutual savings banks to commercial banks. The Committee is presently considering legislation that would substantially alter the present structure and regulation of financial institutions.

One of the provisions in the proposal would provide for Federal chartering of mutual savings banks. The Committee is of the opinion that the establishment of this moratorium for mutual savings banks is consistent with the action taken with regard to conversion of savings and loan associations from mutual to stock form.

EXTENSION OF FLEXIBLE REGULATION OF INTEREST RATES AUTHORITY

Section 107 of the bill extends for one year, until December 31, 1975, the authority of the financial regulatory agencies to set flexible interest or dividend rate maximums on time or savings deposits of depository institutions.

On six different occasions Congress has extended this authority for varying and consecutive periods of time and unless further extended this authority would expire on December 31, 1974.

The original basis for enacting flexible rate control authority was a finding by Congress that interest rate competition was putting an enormous upward pressure on savings rates paid by thrift institutions beyond their ability to pay such rates. Through this rate control authority the Federal agencies have established interest rate differentials between commercial banks and competing thrift institutions. The Committee in examining this question resolved that a one year extension of this authority is appropriate.

Section 107(b) amends the Federal interest and dividend rate authority to provide that Federal supervisory agencies shall give consideration to existing market interest rates in establishing ceilings to assure consumer savers that they receive a fair and appropriate rate of interest on their funds. The Committee believes that in our present economic climate that unreasonably low interest rate ceilings could be counter-productive in that savers would remove their funds from financial institutions covered under Federal interest rate ceilings to other investments bringing a higher rate of return. If this situation continues to develop, it could well be that the existence of Federal interest rate controls rather than discouraging disintermediation, i.e., shifts of funds among various institutions, would actually become a primary cause of such activity.

The Committee notes, however, that the consideration given to existing market rates by the Federal agencies should be balanced with the recognition of the benefit afforded to consumer savers by Federal deposit insurance. Investments made on the open market are subject to a greater degree of risk than deposits made by savers in institutions offering Federal deposit insurance.

This subsection is not intended to alter the existing practice of regulatory authorities to establish rate ceilings consistent with the ability of thrift institutions to pay such rates in recognition of the relatively lower yield of their investment portfolio containing largely residential mortgages as required by law.

This subsection also makes it clear that Federal supervisory agencies administering interest rate authority are not precluded from establishing different rate ceilings for the institutions subject to their jurisdiction. Since the passage of flexible interest rate authority in 1966, there has been an historical differential on savings rates whereby the thrift institutions are allowed to offer a higher interest rate than commercial banks. This has been necessary to keep in balance the relative competitive advantage that commercial banks have over thrift institutions with respect to their investment portfolio. Thrift institutions are limited by law to the relatively lower yielding residential mortgage investments and thus have much more restrictive limitations on the rate payable on savings than a commercial bank. Until such time that adjustments can be made in the structure of financial institutions, which is now under consideration by the Committee, a continuing interest rate differential may be necessary.

The Committee does not intend that the amending language be interpreted to alter this historical rate differential between different type institutions.

INCREASE DOLLAR LIMITATION ON THE COST FOR CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

Sec. 108 of the bill increases by $80 million, from $60 million to $140 million, the amount of money which may be spent by the Federal Reserve System to construct buildings for branches of the Federal Reserve banks.

Sec. 10 of the Federal Reserve Act, as presently written, in effect imposes a $60 million limit on the construction of buildings for branches of the Federal Reserve banks. The existing authorization is virtually exhausted, and new buildings are needed to permit the Reserve banks to perform their functions efficiently.

Federal Reserve branches perform functions important to the banking system and to the public, including particularly handling cash and checks. The use of branches by the Federal Reserve banks saves time and money in transporting cash and checks in addition to speeding up the operations of the commercial banking system.

As the economy grows, the workload of the Reserve banks also expands. While technological improvements in the method of handling many Federal Reserve Operations have helped to stem the need for additional space, increases in the volume of operations have more than offset the savings. Some idea of the growth in the workload of Reserve bank branches is indicated by the volume increases in the following activities from 1968 through 1973:

Currency operations.—Increased by 20 percent.

Coin operations.—Increased by 19 percent.

Check collections.—Increased by 40 percent.

The statutory limit on branch building construction applies to the cost of the building proper—that is, the cost of constructing, purchasing, or adding to buildings—but not to the cost of land, vaults, permanent equipment, furnishings, or fixtures. Branch building programs are subject to approval by the Board of Governors in Washington.

Based on current estimates, the increase in authorization of $80 million will allow for construction needed through 1977. The following is a tabulation of the estimated building proper costs of Federal Reserve branch building construction contemplated:

Federal Reserve bank branch:	Cost
Baltimore	$24,000,000
Charlotte	15,000,000
Omaha	14,000,000
Los Angeles	26,000,000
Total	79,000,000

Appropriated funds are not used in constructing Federal Reserve buildings; the cost of construction is amortized out of the earnings of the Federal Reserve banks over a period of years.

PURCHASE OF OBLIGATIONS BY FEDERAL RESERVE BANKS

Sec. 109 of the bill would renew, until October 31, 1975, the authority of Federal Reserve banks to purchase directly from the Treasury public debt obligations up to a limit of $5 billion outstanding at any one time. The direct purchase authority is a temporary accommodation to be used only under unusual circumstances.

The authority for Federal Reseve banks to make direct purchase of U.S. obligations was enacted in World War II and has been extended temporarily from time to time since enactment. The last extension (P.L. 93-93, approved August 14, 1973) extended the authority from June 30, 1973 to October 31, 1973. Thus, at present there is no authority for such direct purchases by Federal Reserve banks.

The Committee has been informed by the Treasury that this authority is a needed and useful tool to have under certain circumstances.

The authority has been used in recent years only in periods just prior to tax payment dates. Its existence permits the Department to operate with considerably lower cash balances than would otherwise be required. The availability of the direct purchase authority is also important as a standby means of providing a ready source of funds in the event of a disruption in the private financial markets due to a serious national emergency or a nuclear attack on the United States. This section of the bill, therefore, reinstates the authority of the banks to make such purchases until October 31, 1975.

The following chart indicates the number of times the Treasury has used the direct purchasing authority. As will be noted, this direct borrowing system has been used only 38 times since 1942.

DIRECT BORROWING FROM FEDERAL RESERVE BANKS, 1942 TO DATE

Calendar year	Days used	Maximum amount at any time (millions)	Number of separate times used	Maximum number of days used at any one time
1942	19	$422	4	6
1943	48	1,320	4	28
1944	None			
1945	9	484	2	7
1946	None			
1947	None			
1948	None			
1949	2	220	1	2
1950	2	180	2	1
1951	4	320	2	2
1952	30	811	4	9
1953	29	1,172	2	20
1954	15	424	2	13
1955	None			
1956	None			
1957	None			
1958	2	207	1	2
1959	None			
1960	None			
1961	None			
1962	None			
1963	None			
1964	None			
1965	None			
1966	3	169	1	
1967	7	153	3	3
1968	8	596	3	6
1969	21	1,102	2	12
1970	None			
1971	9	610	1	9
1972	1	38	1	1
1973 [1]	10	485	3	6

[1] Through Sept. 30, 1973.

The Committee believes that the temporary authority granted to the Federal Reserve banks to purchase directly U.S. obligations is important as a standby means of

providing a ready source of funds to the Federal Government.

EXTENSION OF SUPERVISORY AUTHORITY OVER BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES TO PARENT COMPANY AND SUBSIDIARIES

Sections 110 and 111 of the bill would amend existing law to provide the Federal Reserve Board and the Federal Home Loan Bank Board with additional authority by expanding the scope of cease and desist powers of these agencies to cover parent holding companies and for non-banking subsidiaries.

These sections would not alter present procedures or standards but would simply extend existing cease and desist provisions to remedy a supervisory deficiency.

Under present law, the only available means of dealing with unsafe and unsound practices or violations on the part of a parent holding company is through the sanctions contained in criminal law.

The Committee was informed by the Federal Reserve Board and the Federal Home Loan Bank Board of situations where the actions of a parent holding company or its non-financial institutions subsidiaries constituted a serious threat to the safety, soundness, or stability of a subsidiary financial institution.

The present cease and desist procedure continued in existing law enables the Federal supervisory agencies to move quickly and effectively to correct unsound or illegal practices by financial institutions and the extension of this authority will better equip the agencies to assure that financial institutions are not endangered with respect to activities engaged in by parent holding companies or for non-financial institution subsidiaries.

The Committee believes that the principal concern of the Federal supervisory agencies in discharging their responsibilities under the Federal law should be with the soundness of affiliated financial institutions. It is clearly in the public interest that these institutions remain sound and viable whether operated independently or as part of a holding company system. The cease and desist authority that the Committee recommends will, among other things, help prevent or terminate practices which might result in significant damage to depositors or to public confidence in the financial system. However, the Committee expects that the agencies will not use this authority to interfere unduly in the affairs of nonbank subsidiaries.

INDEPENDENCE OF REGULATORY AGENCIES

Section 112 applies to the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Unit Administration. It would clarify existing law by providing that no government official may require any of these agencies to submit for prior review or approval their legislative recommendations, testimony or comments to the Congress. Similar provisions have already been enacted into law with respect to the Consumer Product Safety Commission. To ensure that there is no misunderstanding, Section 112 requires that the agency include in its recommendations or testimony a statement indicating that the views expressed are those of the agency and do not necessarily represent those of the President.

The purpose of this section is to preserve and strengthen the independence of these agencies, which were originally created by the Congress to be free of control by the executive branch. In some cases, agency officials have felt that before testifying to the Congress, they must clear their testimony with the Office of Management and Budget. This section is designed to correct that misimpression. In so doing, it should not be inferred that the Committee believes the financial regulatory agencies are required by existing law to clear their congressional testimony with the Office of Management and Budget. The Federal Reserve Board has been especially independent of the executive branch and the Committee, in recommending the adoption of Section 112, is simply restating and clarifying the independence of the financial regulatory agencies implied under existing law.

Because Congress delegated its own legislative power to these independent agencies, it is important to prevent executive usurpation of their powers. If these agencies are to be effective in their vital role of preserving the integrity of our financial institutions, it is essential that each of their administrators must be capable of informing Congress exactly what he and his agency believe to be the facts about the matter before it. The public interest will be far better served if legislative recommendations and comments are presented directly to the Congress, without regard to whether they conform to the official Administration position. Of course, nothing in the amendment would prevent the Administration from making its views known to the Congress. Thus the Congress would have the benefit of the Administration's judgment as well as the judgment of the independent financial regulatory agencies.

INCREASE IN AUTHORITY OF THE TREASURY TO PURCHASE HOME LOAN BANK OBLIGATIONS

Section 113 of the bill would increase by $3 billion the authority of the Secretary of the Treasury the discretionary authority of the Secretary of the Treasury to purchase Federal Home Loan Bank obligations.

In 1950 the Congress authorized the Secretary of the Treasury, in his discretion, to purchase obligations of the Federal Home Loan Banks, up to $1,000,000,000 as an aggregate amount to be outstanding at any one time. The Senate report on this action noted that it would aid the housing markets by providing "Government support to the Federal home loan banks in supply the credit needs of their members in any possible future emergency in which the banks could not obtain sufficient funds in the private money market." The Senate report also stated: "In addition, it is believed that the very existence of this Government support would, under less favorable economic conditions, tend to stabilize the Federal Home Loan Bank System even though the support is not actually used."

In 1969, the Congress expanded the purchasing authority of the Secretary of the Treasury of $4,000,000,000. This increase was in recognition of the subsequent expansion of the Federal Home Loan Bank System and of its massive support to the distressed housing market at the time.

The Committee finds that these same factors are present at this time. But, in addition, the Secretary of the Treasury and the Federal Home Loan Bank System have recently acted, at the request of the President, to employ $3 billion of the $4 billion authorization on a standby basis to initiate a new commitment program for conventional mortgages.

This amendment temporarily increases the purchasing authority of the Secretary to $7 billion in recognition of all of these circumstances, particularly the $3 billion standby commitment of the Secretary under the President's recent housing initiatives.

This amendment was adopted by the Committee by a vote of 6–5.

COMPLIANCE WITH STATE LAW

The Committee adopted an amendment included under Section 114 of the bill which makes it clear that federally chartered financial institutions are subject to certain State consumer protection laws. The amendment is supported by the National Association of State Bank Supervisors and the National Association of State Savings and Loan Supervisors.

Section 114 would provide that no rule, regulation or order issued by the Federal Home Loan Bank Board, the Comptroller of the Currency or the National Credit Union Administration shall prevent or exempt a federal credit union from complying with any State law or regulation which protects borrowers by limiting the terms and conditions of a mortgage loan or consumer credit contract. Notwithstanding this general policy, the amendment would provide that federally chartered institutions can be exempt from State law in particular instances where Congress specifically grants an exemption. The amendment also would make it clear that the federal supervisory agencies are not precluded from using their regulatory power to afford borrowers greater protections than those contained in State law.

The need for a clarifying amendment stems from several recent interpretations of the Federal Home Loan Bank Board to the effect that the regulations of the Board with respect to the operations of federal savings and loan associations preempt any contrary State law. Under these interpretations, the Board has held that federal savings and loan associations do not have to comply with State laws establishing limitations on escalator clauses, prepayment penalty clauses or other similar clauses, even in those cases where the State law affords the borrower with a greater degree of protection.

During the Committee's consideration of this issue, some doubt was expressed that the Bank Board has the authority to preempt State law by regulation and it was suggested that the matter might be clarified through the courts. However, a majority of the Committee felt that a court test of the Board's authority would prove time consuming and perhaps inconclusive and that a clear and immediate clarification of Congressional policy was necessary.

The Committee believes that federally chartered financial institutions should be subject to State consumer protection laws for the following reasons:

(1) *To safeguard State's rights.*—Unless there are overriding interests to the contrary, the federal government should not interfere with the efforts of a State to protect consumers. Federally chartered financial institutions are subject to a wide variety of State laws including laws dealing with taxes, branching, fire and building codes, conversions, usury and the like. The Committee sees no reason to make a special exception for consumer protection laws.

(2) *To restrict unlimited administrative power.*—Even if a case could be made for preempting a State consumer protection law in a particular area, the power to reverse the judgment of a State should not be delegated to a federal administrative agency. The Comptroller of the Currency and the National Credit Union Administration are headed by one man, while the Federal Home Loan Bank Board is headed by three. These non-elected officials should not be given the power to over-rule by a stroke of the pen, the considered judgment of a State Legislature and its governor. Only Congress should make such a decision if it is to be made at all.

(3) *To preserve the dual banking systems.*—If federally chartered financial institutions are exempted from State consumer protection laws, these institutions would be given an unfair competitive advantage over State chartered financial institutions. If State chartered institutions are able to live under State consumer protection laws, there is no reason why federally chartered institutions should not abide by the same rules.

(4) *To conform to federal policies on usury.*—With certain exceptions, national

banks and federal savings and loan associations are specifically required by federal law to comply with State usury laws. Legislation establishing limitations on the terms and conditions of a mortgage loan or consumer credit contract is simply an extension of the usury law in that both are designed to protect borrowers by limiting the amount of revenues accruing to creditors. Accordingly, Section 114 would clarify that this broader interpretation of State usury laws is applicable to federally chartered financial institutions.

AUTHORITY OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE MORTGAGES FROM STATE INSURED INSTITUTIONS

Section 115 would expand the powers of the Federal Home Loan Mortgage Corporation by authorizing the corporation to purchase, and make commitments to purchase, residential mortgages from any financial institution the deposits of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 percent of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that State.

In adopting this provision the Committee was mindful of the President's recent announcement of a plan to permit the Federal Home Loan Mortgage Corporation to purchase, and make commitments to purchase, conventional mortgages on newly constructed homes at below market interest rates (8¾%). This plan, which has been called the "conventional tandem plan," would be implemented by using Treasury borrowing power conferred by Section 11(i) of the Federal Home Loan Bank Act, as amended.

The "conventional tandem plan" would be available through the majority of mortgage lending institutions in all States except Massachusetts, where, for historical reasons, mutual savings banks, which are the dominant mortgage lenders in that State, have their deposits insured by the Massachusetts Central Fund. In adopting Section 115 the Committee sought to make available to Massachusetts homebuyers the same opportunity presently enjoyed by residents of other states to participate in the "conventional tandem plan." The Committee believes that mortgage money which is offered at below market interest rates with U.S. Treasury backup should be equally available in all states.

ESTABLISHMENT OF NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

Title II of the bill would provide for the establishment of a National Commission on Electronic Fund Transfers.

The Commission would be composed of 20 members appointed by the President and including the Federal Reserve Board, Treasury, Comptroller of the Currency, FDIC, Federal Trade Commission, Federal Home Loan Bank Board, National Credit Union Administration, a State-regulatory officer, 6 individuals representing banking, thrift, and other business entities, providing for one representative each of commercial banks, savings and loan associations, mutual savings banks, credit unions, retailed users of EFTS, non-banking institutions offering credit card services, and 6 individuals from private life who are clearly identifiable as representing the public and consumers best interest.

The bill further would provide that the Chairperson of the Commission and the Executive Director shall be confirmed by the Senate. The function of this Commission is to conduct a thorough study and investigation of electronic funds transfer system and to recommend appropriate administrative action and legislation taking into account among other things:

(1) The need to preserve competition among the financial institutions and other business enterprises using such a system;

(2) The need to prevent unfair or discriminatory practices by any financial institution or business enterprise using or desiring to use such a system;

(3) The need to afford maximum user and consumer convenience;

(4) The need to afford maximum user and consumer rights to privacy and confidentiality;

(5) The impact of such a system on economic and monetary policy;

(6) The implications of such a system on the availability of credit;

(7) The implications of such a system expanding internationally and into other forms of electronic communications; and

(8) The need to protect the legal rights of users.

Title II also would require that the Commission consult with and receive advice from the Department of Justice and that they transmit to Congress not later than two years after enactment a final report of its findings and recommendations.

The Commission has an authorization for appropriations not to exceed $2 million.

The Commission recognized that our national payments mechanism—the system used to transfer funds from one individual or business to another—is constantly changing and developing. The concept of electronic funds transfer systems is the newest of a long series of developments. In early times, affairs of finance were conducted through bartering. Then came coins, currency, checks, and finally credit cards. Each has advantages over the other, yet all have substantial drawbacks. Currency is not safely transmitted through the mail, nor is it practical in transactions involving large sums. The sheer volume of checks that pass through our banking system is staggering. It has risen from 16 billion in 1966 to 23 billion a year currently, not including the billions of checks issued by the Federal Government.

Faced with this situation, both industry and government have made attempts to apply modern computer and communications technology to the needs of the payments mechanism. Experimental programs and pilot projects are already in progress in various locations. In some of these programs, computers and data transmission system are being utilized to perform some of the traditional functions of clearinghouses which sort and process paper checks. Thus, for example, some individuals are today receiving payroll deposits and are paying some of their bills electronically. Experiments involving the use of this technology in retail transactions are also in progress. Results to date are inconclusive.

The Committee recognize that the concept of electronic fund transfers poses a number of questions which must be resolved before any rational decisions can be made and that ultimately the answers to these questions must be resolved by Congress.

The Committee is concerned that without sufficient study that electronic funds transfers development could result in distortions to competition and the invasion of individual citizens' right to privacy and confidentiality.

During the existence of this study Commission, the Committee would urge that Federal agencies involved in electronic funds transfers as well as those engaged in such activity in the private sector recognize that this potential payments mechanism is in an experimental stage and, therefore, is subject to substantial change and modification.

The Committee is concerned that premature action by the Federal Government or private industry could have serious ramifications. If clear that Congress will be called upon to determine the extent and manner in which this potentially new payment system will operate.

The Committee believes, therefore, that during the existence of the Commission that actions taken both by Federal regulatory agencies and private industry be of an experimental rather than of a permanent nature.

CORDON RULE

In the opinion of the committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

ADDITIONAL VIEWS OF SENATORS WILLIAM PROXMIRE AND HARRISON WILLIAMS

NEED FOR A GAO AUDIT OF THE FED

Unfortunately, the Committee rejected an amendment to authorize the General Accounting Office to audit the operations of the Federal Reserve Board, thus ending a 40-year period in which the Fed was the only important agency of government not audited for Congress by the GAO. Specifically, the amendment directed the Comptroller General to make an audit, at least once in every three years, of the Federal Reserve Board, the Federal Reserve Banks, branch banks, related agencies and facilities, and to report the results to the Congress, together with suggestions for more efficient administration and with a listing of activities found by the GAO not to be in compliance with the applicable law. In order to safeguard the confidentiality of certain delicate monetary operations, the amendment provided that the GAO audit would not cover examination reports of Federal Reserve member banks or transactions conducted on behalf of foreign central banks. For the same reason, operations concerning open market transactions and discount policy determined by the Board to be sensitive would not be available for audit by the GAO until one year after their occurrence.

Despite the fact that the Fed has been largely exempt from GAO audit since the 1930's, the audit principle has already won widespread support. The House Banking and Currency Committee has approved a bill identical to my amendment, and even those who dissented stated that they favored at least a partial audit. By a vote of 333 to 20, the full House approved a bill containing a more limited audit of the Fed's administrative expenses. In its annual report, the Joint Economic Committee has strongly endorsed periodic audit of Federal Reserve Board activities as part of a program to make the Fed more accountable to the Congress. Support has also come from outside groups inside and outside the financial industry, including the National Association of Homebuilders, the AFL–CIO, National Savings & Loan League, the U.S. Savings and Loan League, the Credit Union National Association, the Independent Bankers Association of America and the National League of Insured Savings Associations.

Resistance to the idea has come almost exclusively from the Fed itself. Federal Reserve officials have stated that GAO audits would interfere with the independence of the Fed, particularly in the sensitive area of monetary policy. There is no truth to this objection. Under the proposed legislation, GAO would review finances, management and programs, and report to the Congress on the efficiency of operations and on whether the programs are fulfilling the purposes Congress envisioned in the Federal Reserve Act and other legislation. But the GAO could not dictate what the Fed's programs should be, nor could it direct the Fed's monetary policies. GAO can only call the attention of Congress to the programs and actions which it finds are inefficient or not in accordance with the purposes of Congress, without in any way affecting the Fed's power to make its own decisions. Its work is purely informational.

Another objection sometimes made is that the Fed already conducts its own audits assisted by private accounting firms. How-

ever, these audits are not as complete as GAO audit. The private audit addresses only the question of whether the financial state of the audited bank has been accurately represented in its reports. It does not address questions of economy, efficiency, or legality. A private auditor is not qualified to evaluate matters of public policy for the Congress; only the GAO can do that.

Others argued that the GAO should not be allowed to audit the Federal Reserve System because the GAO lacks experience in this area. However, GAO audits virtually every agency of the government, including the Department of Defense and the Atomic Energy Commission, both of which are engaged in sensitive, complex and technical operations. Not only has GAO established its expertise in auditing these agencies, but its audits have not in any way hampered operations of any agency and have in fact brought about savings of millions of dollars.

The Federal Reserve System should be audited because, to look at the matter realistically, it is in fact spending government funds. The operational expenses of the Fed are paid out of the interest on the Treasury bonds it holds, and the remainder of that interest is returned to the Treasury. Every dollar that the Fed spends is a dollar which will somehow have to be raised from the taxpayers. The legality and propriety of the Fed's expenditures is therefore a matter of compelling interest to Congress.

Furthermore, astronomical sums of money are involved. The Fed holds in its open market portfolio about $76 billion in government securities—about 20% of the national debt. Even greater amounts are involved in its clearinghouse functions. In recent testimony, George W. Mitchell, Vice Chairman of the Board of Governors, states that the Federal Reserve System annually handles a flow of 27.8 billion pieces of coin and currency with a value of $53.2 billion, 9.8 billion checks totalling $3.7 trillion and wire transfers amount to $17 trillion. The very magnitude of these responsibilities cries out for the improved congressional oversight which only a regular GAO audit can make possible.

The Fed's own operational expenditures have been rapidly increasing, reaching $495 million in 1973, an increase of 104% from 1968 levels. During this same period, federal outlays increased by only 49%. Thus, expenditures by the Fed are increasing more than twice as fast as federal expenditures.

If the Fed proceeds with its plan to establish an electronic funds transfer system to replace the present check clearing system, millions of dollars of additional capital and operating expenditures will be required. An audit is required to make sure these funds are spent wisely.

It should also be noted that under the bill reported by the Committee, the Fed is authorized to spend an additional $80 million for the construction of branch banking facilities. New buildings are planned for Baltimore, Charlotte, Omaha and Los Angeles. It is expected that over $70 million will have been expended on these projects by 1977. At present, Federal Reserve construction procedures may best be described as highly informal. Competitive bidding is not required. The other safeguards which the General Services Administration imposes on most federal construction are not applicable to the Fed. Under these circumstances, a GAO audit is needed to provide at least minimal protection against extravagent or improper expenditures.

All this is not to declare that there is any serious problem with the way the Fed conducts its operations. Rather, it is to say that where any agency of government is as powerful and important as the Fed, it is vital that Congress have readily available all the information it needs to evaluate its performance. True, the Board provides specific information on request. But, Congress lacks the staff to gather and evaluate on a regular basis all the data needed for effective oversight. This is what the GAO is for, and it performs this function admirably in auditing other agencies. For the most part, the only information Congress now gets about the Federal Reserve System is what the Fed wants it to have. Surely there can be no compelling reason for continuing to accept this anomalous and undemocratic arrangement. It is time to make the Fed accountable to the Congress.

HARRISON WILLIAMS,
WILLIAM PROXMIRE.

ADDITIONAL VIEWS OF SENATOR WILLIAM PROXMIRE

STOCK CONVERSIONS OF SAVINGS AND LOAN ASSOCIATIONS CONTRARY TO PUBLIC INTEREST

The Committee approved an amendment which substantially repeals the moratorium on Savings and Loan stock conversions in effect since 1963. Under Section 105 of the bill, the Federal Home Loan Bank Board is authorized to approve up to 30 conversion plans over the next two years in the 22 states which permit conversion from the mutual form of organization to the stock form of organization. In addition, the Board is authorized to approve more than 30 additional conversions in the remaining 28 states should these states enact legislation authorizing mutual savings and loan associations to convert to capital stock associations.

HISTORY OF THE CONVERSION ISSUE

Under the Home Owners Loan Act of 1933, Congress authorized the chartering of federal mutual savings and loan associations. Mutual savings and loan associations may also be chartered in all 50 states. In addition, 23 states have authorized state charters for capital stock associations. At the end of 1972, mutual associations comprised 86% of all associations and held 79% of the assets of the S&L industry as indicated in Table I:

TABLE I

Form of organization	Number of association	Percent	Total assets (billions)	Percent	Net worth (billions)
Federal mutual	2,044	49	$136	58	$8.3
State mutual	1,560	37	51	21	3.3
Subtotal mutual	3,604	86	187	79	11.6
State stock	587	14	49	21	3.1
Total	4,191	100	236	100	14.7

In 1948, Congress passed legislation which the Federal Home Loan Bank Board interpreted as authorizating the conversion of mutual savings and loan associations into capital stock associations. Under this authority, the Board approved 58 conversion plans from 1948 through 1963. However, because of various inequities and abuses arising from these conversions, the Board in 1963 established an administrative moratorium on any further conversions. With one exception the moratorium on conversions has been maintained up to the present time.

The basic problem in permitting the conversion of savings and loan associations from the mutual to the capital stock form of organization is how to dispose of the net worth which the mutual association has accumulated over the years. It is not clear as to who, if anyone, has an ownership claim on this net worth. The danger involved in conversion is that the accumulated net worth will be appropriated for the benefit of those insiders who engineer the conversion plan. The potential for abuse is enormous since the net worth of mutual savings and loan associations reached $11.6 billion by the end of 1972.

In an exhaustive study of the Savings and Loan Industry directed by Irwin Friend of the University of Pennsylvania, the conversions from mutual to stock occurring during the 1948–1963 period were carefully reviewed. The Friend report, issued in 1969, catalogued a number of serious abuses associated with the conversion process. These include the following:

"Depositors were not given adequate information about the conversion plan;

"Dissenting shareholders who did not like the conversion plan were not given any alternative means of realizing their claim to a share of reserves and surplus;

"In a majority of pre-1963 conversions the control group initiating the conversion was able to appropriate a large part of the net worth. The Friend report indicates that this finding is consistent with the view expressed by most knowledgeable observers, that the pre-1963 conversions generally ended up with somewhere between 75 and 100 percent of the permanent stock owned by the management group.

"Conversion plans were often initiated by the most dubious elements within the savings and loan industry. For example, in 1961–62, 23 associations in Illinois were permitted to convert from mutual to stock companies. Eight of these associatons had failed by the end of 1968."

After discussing whether these abuses could be preserved through stricter regulations, the Friend report concludes with the following observation:

But even if we could assume that regulation is able to overcome these possible sources of inequity, we are left with a paradox: if true equity is established the entrepreneurial basis for interest in conversions may be reduced to a point where few conversions may take place. Thus, if a transformation from mutual to stock structure is deemed desirable, this may require some degree of inequity as a condition for reasonably speedy transformation. Another aspect of equitable conversion is that it necessitates detailed supervisory intrusion into the process. If this intrusion is carried out with the detail and conscientiousness of the Houston conversion, there may be few conversions. If it is compromised either by lax enforcement or a move to general rules without close surveillance, entrepreneurial capture of mutual net worth may be resumed and the rate of conversions accelerated, at the expense of equity."

In 1972 the Home Loan Bank Board temporarily suspended the moratorium on conversions and approved a test conversion plan involving a San Francisco savings and loan association. Shortly thereafter, the Board announced it would consider further applications for conversions pursuant to proposed regulations published in January of 1973. These proposed regulations provoked such a controversy that in August of 1973 the Congress imposed a statutory moratorium on conversions. The statutory moratorium expires on June 30, 1974. Congress must now consider whether to continue the moratorium or to permit conversions to occur.

PROBLEMS WITH CONVERSIONS

As the 1948–63 experience so clearly indicates, the major problem associated with conversion plans is the possibility of windfall profits accruing to a small group of insiders who initiate the conversion plan. Any scandals involved in the conversion process can have an adverse effect upon the entire S&L industry. Evidence of windfall profits going to a select few could easily undermine public confidence in the integrity and financial reputation of all savings and loan associations. Should this occur, the abilities of savings and loan associations to attract the deposits required to meet our housing needs could be severely impaired.

Another problem with permitting conversions from mutual to stock is the danger that the major portion of the savings and loan industry could come under the control of holding companies. For example, 68% of the assets held by capital stock savings and loan associations are already under holding company control. Moreover, unlike the Bank Holding Company Act, savings and loan holding companies owning only one association are permitted to engage in any activity no matter how far removed from the S&L business. The Federal Reserve Board has even permitted bank holding companies to own and operate savings and loan associations. Thus if conversions are possible, many mutual S&L's could be taken over by large conglomerate corporations or bank holding companies or S&L holding companies.

The prospect of take over by S&L holding companies would seem to be confirmed by the reactions of S&L holding companies to the Board's new conversation regulations. In a letter to association members dated January 25, 1974, an official of a trade association representing S&L stock companies talked about the "fantastic acquisition opportunities" arising from the new Board conversion regulations. One of the reasons why Congress provided only mutual charters for federal savings and loan associations in 1934 was to insure their independence and local character. Mutual associations, by their very nature, are immune from mergers, acquisitions, tender offers or other forms of corporate takeover. The independence and local orientation of mutual savings and loan associations could be radically transformed if these associations are permitted, through the conversion process to pass under holding company control.

NO CASE FOR CONVERSION

Some of the problems stemming from conversions might be minimized through the administrative regulations and policies of the Home Loan Bank Board. However, Congress has little control over these policies. Any statutory authority for conversions thus involves some degree of risk that abuses will still occur in spite of the Board's policies and regulations. Congress might be willing to accept these risks if there were demonstrable and substantial public benefits arising from the conversion process. However, the Bank Board has been unable to demonstrate any benefits from conversions that could not be realized through other means.

The main argument advanced by the Bank Board was that conversions would permit mutual savings and loan associations to raise more capital by issuing capital stock. Implicit in this argument is the notion that there are a substantial number of capital deficient associations whose operations could be substantially expanded if they had access to the capital markets. The argument is fallacious on a number of grounds.

First of all there is no significant difference between mutual and stock associations in the amount of capital employed. At the end of 1972, the net worth of all mutual associations comprised 6.19% of total assets. The comparable figure for capital stock associations was 6.31%. Thus mutuals have done about as well as stock companies in raising capital.

Second, those who apply for conversions do not conform to the Board's picture of a capital deficit association. The net worth of the 16 conversion applicants on file with the Board is 6.02% of total deposits, or 20% above the statutory minimum of 5% for established associations. The most vociferous conversion applicant has a net worth to deposit ratio of 8.09%, well above the industry average. Whatever the claims of the Board, the motivation for conversions must be ascribed to other grounds.

Third, the Board has other alternative methods for meeting the capital needs of mutual associations. It could authorize savings and loan associations to meet a portion of their capital requirements through the issuance of subordinated debentures, an option now available to commercial banks. Second, those associations who are capital short can still meet all the legitimate demand for mortgage loans in their community by selling a portion of those loans to the Federal Home Loan Mortgage Corporation, a subsidiary of the Home Loan Bank Board. This was one of the purposes Congress had in mind when it created the corporation.

It has also been argued that conversions should be encouraged on the grounds that capital stock associations are generally better managed. However, the Bank Board presented no evidence to substantiate the claim. In fact, the claim that stock associations are more efficient was rejected by the Friend Report on the S&L industry. The Friend study examined the operating characteristics of stock and mutual associations in great detail and concluded there were no significant differences in their efficiency. As a matter of fact, figures compiled by the Home Loan Bank Board indicate that capital stock companies experienced a financial loss rate 3½ times greater than the comparable rate for mutual associations. These figures would tend to suggest that stock associations are managed less effectively compared to mutual associations.

In summary, the Board failed to make a case for any significant public benefits which might arise from permitting mutual associations to convert to capital stock associations. Conversions will not raise more money for housing that could not be raised through other means. There is no convincing evidence that stock associations are better managed than mutual associations. Nor is there any great demand for conversions within the savings and loan industry. The U.S. Savings and Loan League, which represents 95% of the industry, is opposed to the Board's conversion legislation. Conversions are also strongly opposed by the Council of Mutual Savings Institutions, an organization representing mutual savings and loan associations.

BOARD CONVERSION PLANS DEFICIENT

Even if one were to concede the argument that conversions are in the public interest, the specific conversion plans advanced by the Board are clearly deficient. Two plans have thus far been developed by the Board. The first plan was announced in January of 1973 and provided that the depositors in a converting association as of a record date would receive a free distribution of their pro-rata share of the association's net worth. The distribution would be in the form of common stock certificates which could be resold in the open market.

There are two serious defects in the so-called free distribution plan. First, it is unfair and arbitrary in the manner in which it rewards depositors. A depositor who had his money in a mutual association for 20 years and who thus helped to build up the association's net worth would get nothing if he withdrew his funds one day before the record date established in the conversion plan. Conversely, a depositor who put his money in the association one day before the conversion date (possibly as a result of inside information) would receive a windfall profit.

Second, the free distribution plan would have a disruptive effect on the savings and loan industry. Once the possibility of conversions became widely known, depositors would shift their money from association to association in anticipation of the windfall distributions accruing from the conversion process. Because of the pressures brought by depositors, mutual associations would be forced to convert whether they wanted to or not. The structure of the entire savings and loan industry could thus be radically transformed in a relatively short period of time.

When the Board presented its first plan to Congress, these difficulties were minimized. The Board assured the Congress that its free-distribution plan was the only fair and workable method for effecting conversions. Fortunately, the Congress did not buy the Board's arguments and instead imposed a statutory moratorium on any further conversions. (PL 93–100 enacted August 16, 1973).

Following the statutory moratorium imposed by Congress, the Board re-examined its free-distribution plan and discovered that the critics of the plan were right after all and the Board was wrong. The Board concluded that the free distribution method *was* unfair and disruptive.

Following its rejection of the free-distribution method, the Board announced a second plan in February of 1974. This plan calls for the sale of stock shares rather than their free distribution. Depositors would be given the first opportunity to purchase these shares in amounts proportionate to their deposits as of a record date. Any shares not purchased by the depositors would be made available to management and the general public. The value of the new stock shares would be equal to the fair market value of the association as determined under procedures to be specified by the Board. The fair market value could be more or less than the association's book value depending upon prevailing market prices for the shares of capital stock associations.

In its latest testimony before the Committee, the Board once again tried to convince Congress that it has discovered the one fair and workable method for processing conversions. However, there are serious defects in the Board's second plan that in some ways render it even more unacceptable. The major defect with the Board's latest proposal is the strong possibility that windfall profits will accrue to management or other insiders.

The probability of windfall profits is inherent in any stock sale plan where the owners of the new stock acquire an ownership right in the existing equity of the converted associations. For example, assume a mutual association with assets of $100 million and a net worth of $6.2 million, the owners of the new capital stock association would be required to purchase stock shares in the amount of $6.2 million. However, the infusion of $6.2 million in new capital will double the net worth of the association to $12.4 million. Thus the owners of the new stock association wind up paying $6.2 mililon for an association whose net worth has suddenly become $12.4 million. In effect, they have doubled their money overnight.

The Board argues that these windfall profits are largely theoretical in terms of today's stock market. S&L stocks are now selling at a Price/Earnings ratio of around 5. Thus the Board argues that the market value of the converted association would still be only $6.2 million despite its book value of $12.4 million. In effect the Board is proposing to set the fair market value of a converting association at an amount equal to the earnings after conversion (taking into account the incremental earnings derived from the new capital) multiplied by the prevailing Price/Earnings ratio on S&L common stocks.

The Board asserts that it is proper to undervalue an association for conversion purposes as long as the market for S&L stocks in general is undervalued. Under this approach, there is a built-in incentive to convert when the market for S&L stocks is abnormally depressed. The managers of an association are in the best position to know its true worth and can take maximum advantage of this knowledge to time the conversion plan and acquire stock in the converted S&L at a bargain basement price. The Board does not propose to limit the number of shares which can be acquired by management and one witness quoted a knowledge-

able investment banking source to the effect that under the Board's plan, management or their associates would wind up with 75% of the stock.

In addition to the built-in incentive of management to initiate conversions when the P/E ratio of S&L stocks is abnormally low, the mechanics of the Board's appraisal method makes conversions progressively more difficult as the P/E ratio returns to more normal levels even assuming the managers of a mutual wanted to convert. For example, if the P/E ratio on S&L stocks were to return to its historic average of around 12, it would take more than $60 million under the Board's formula to purchase a mutual S&L with a net worth of only $6.2 million.

How many investors would be willing to buy stock in a converted S&L at a price more than ten times the book value prior to conversion?

In summary, the only time the Board's new conversion plan is workable, from the point of view of both management and investors, is when the market for S&L stocks is abnormally low. This is precisely the time when the probability of windfall profits accruing to insiders is at a maximum.

EXPERIMENTATION UNSOUND

Despite the inherent defects in the Board's new plan, a majority of the Committee decided to permit the Board to process a limited number of conversions on an experimental basis. However nothing will be gained from these experiments when the basic conversion plan is inherently defective. The situation is analagous to an airplane manufacturer who discovers serious errors in the design plans for a new aircraft which increases the probability that the plane will crash. Under these circumstances, the airplane manufacturer doesn't experiment with the lives of test pilots by building a limited number of aircraft for experimental purposes. He sends the engineers back to the drawing board and tells them to produce a better plan. This is what the Congress should tell the Home Loan Bank Board. It is inappropriate and contrary to sound public policy to "experiment" with windfall profits.

Another problem with the experimental approach taken by the Committee is that it prejudices the adoption of other approaches to the conversion issue which have not been adequately considered by the Board and which may be more promising. For example, the Friend report on the S&L industry suggested that one method for solving the windfall profit problems would be to distribute the equity in a converting association to the F.S.L.I.C. According to the Friend report,

"The mutual shareholder has an excellent legal claim to the net worth of a converting association, but his moral claim is not especially strong. We have seen that mutual shareholders, especially under rate control, are nonparticipating de facto creditors. Furthermore, they do not expect to realize any claim on net worth, so that their conversion profits would constitute windfall gains. Since the capital value of the bulk of mutual shares is insured by the FSLIC, profits of conversions accruing to shareholders also cannot be said to be a reward for risk bearing. Thus the case for shareholders participation, while legally sound, is otherwise not very compelling. It may be argued plausibly that the FSLIC, as the primary risk bearer and as the representative of the taxpaying public, has at least as good a moral claim to participation in conversion profits.

A similar approach is contained in S. 3224 which I introduced. Under this bill, the equity in a converting association would be transferred to a public trust and used for the purpose of improving low and moderate income housing. However, the depositors of the association would still retain a residual claim on the equity transferred in the event the association ever liquidated subsequent to conversion.

Under the experimental approach recommended by the Committee, the Board would be free to approve a limited number of conversions on the basis of its second plan involving the sale of stock and retention of the association's existing equity. These conversions would create certain precedents and expectations which would be difficult, if not impossible to reverse, if it were subsequently decided that the public trust fund approach should be adopted. Thus the so-called "experimental" approach taken by the Committee is largely illusory. For all practical purposes, the Committee has approved the Board's latest plan lock, stock, and barrel.

SPECIAL INTEREST PROVISIONS

Perhaps the worst feature of the Committee bill is a proviso giving three associations the option of converting under the Board's earlier free distribution plan which even the Board now acknowledges is contrary to the public interest. None of the three associations testified before the Committee and no evidence was presented during the hearings or the Committee's markup as to why these three associations should be singled out for such favorable treatment. How can members of Congress conscientiously permit three associations to give away free stock to their depositors when all other associations are denied the same right?

The proviso in question is contained under Section 402(j)(2) of the National Housing Act which is added by Subsection 105(d) of the Committee bill. Although the language is written in apparently general terms, only three associations qualify for its benefits—the Prudential Savings and Loan Association of Salt Lake City, Utah; the First Federal Savings and Loan Association of Phoenix, Arizona; and the First Federal Savings and Loan Association of Tucson, Arizona.

The Federal Home Loan Bank Board is strongly opposed to these special exemptions. In an unusually strong letter to the Chairman of the Subcommittee on Financial Institutions, the Board stated its unequivocal opposition to the special exemptions approved by the Committee. The full text of the Board letter is reprinted at the end of these views.

WILLIAM PROXMIRE.

FEDERAL HOME
LOAN BANK BOARD,
Washington, D.C., May 20, 1974.

Hon. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Financial Institution, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In my letter to you of May 13, 1974, I discussed the matter of a legislative exception to any conversion moratorium provision, which would specially authorize Prudential Federal Savings and Loan Association to convert on a free distribution basis. My letter objected to a certain draft of such an exception on grounds which included the facts that the draft was applicable to other associations, embodied in correct legal assumptions, and failed to specify any distinguishing features of the Prudential situation that the Congress might determine could justify a special exception. In order to make the nature of our concern completely clear, we provided a draft example of a special exception that would avoid these difficulties.

My letter specifically did not endorse such an exception and indicated that any decision on this matter was ultimately one for the Congress to make. I now understand that the Subcommittee is giving consideration to one or more special provisions the effect of which would be to authorize Prudential, as well as certain other associations, to convert on a free distribution basis and which may be worded in a manner that might cause future interpretative and litigation problems. This fact is extremely disturbing to the Board, and while we continue to believe that this is a matter for the Congress ultimately to determine, I believe that under these circumstances it is now necessary for the Board to state its advice to you clearly and plainly.

It is the Board's view that no special exceptions authorizing conversion on a free distribution basis are warranted in the Prudential case or in any other case. We would urge the Subcommittee to reject all such exceptions, however drafted. The reasoning behind this position may be quickly summarized in the following two paragraphs.

First, after the fullest consideration the Board has come to the conclusion that conversions on a free distribution basis cannot be authorized without unacceptable injury to the public interest. For the Congress to deliberately sanction conversion on such a basis even in a single case creates a precedent of the most damaging sort, given our present state of knowledge.

Second, while there are circumstances in the Prudential case and in two cases in Arizona which can be cited to distinguish them from other cases, we do not believe that these circumstances justify special treatment. No two things are ever completely alike and they can obviously be distinguished if one wishes to do so. The real question is whether the distinctions amount to such a difference in kind that completely different treatment of them is merited.

In this connection a brief review of certain past history may be helpful. In July of 1972, following the Citizens test conversion, the Board announced its willingness to accept the filing of study applications.

It was hoped that these would elicit in a concrete way suggestions and problems that were not identified in the single Citizens experiment. The Board's moratorium clearly continued in effect both generally and as to these applications. Five applications were soon received, but with the exception of the Prudential application, they were so incomplete that they were of no assistance whatsoever. The two Arizona associations were not among these study applicants. In September 1972 the Board therefore abandoned the idea of accepting study applications and announced that it would proceed to propose conversion regulations of general applicability.

These regulations were proposed in January of 1973, and at the same time the Board proposed to formally revoke its old and inadequate conversion regulations which had been inoperative since 1963. In March 1973, after receiving a very heavy volume of public comments, the Board announced that it would not adopt the January proposals, but would proceed with revised proposals. When the Congress then began to consider moratorium legislation, it was thus quite clear to all concerned that the Board planned to revoke its old, inoperative regulations and to propose at some future date further regulations the nature of whose provisions was unknown. In addition, when the possibility arose that the Congress might make some special provision for associations that had previously filed applications with the Board, the two Arizona associations attempted to do so in an effort to create a "grandfather" position for themselves.

The Committee of Conference acted on the moratorium legislation on May 22, 1973. It approved a shorter moratorium until December 31, 1973 for "study applications" filed prior to the date of the Conference and a longer moratorium until June 30, 1974 for all other applications. It is our understanding that the Conference intended this shorter moratorium for those associations which had originally actually filed study applications with the Board and that the May 22, 1973 date was chosen because of uncertainty

during the Conference as to the exact dates of the Board's prior actions. This would clearly exclude the Arizona associations and probably would not have given recognition to their efforts to manufacture a "grandfather" status.

Regardless of that point, however, it seems clear that the intent of the Congress was to grant the study applicants a priority as to timing of processing, but to require that their applications be processed in accordance with the revised regulations which all concerned knew the Board was developing. The December 31, 1973 date makes little sense unless it is considered to mean that the Board had at least until that date to develop those regulations. The Board in fact proposed these regulations on November 28, 1973. They were adopted in final form on February 28, 1974, the delay of 2 months being attributable to the difficulty of the subject and the many other competing demands on the Board's time. In addition, the language of the statute itself, and its construction both judicially and in the report of Committee of Conference, indicate that the study applicants were to be processed in accordance with the regulations in effect on or after December 31, 1973.

I am aware, Mr. Chairman, that representations have been made to the Subcommittee which place a different perspective on the events recounted above and which raise various factual disputes. The same representations have been made to us. We have examined these representations carefully and in good faith, and with an overriding desire to achieve equity within the intent of Congress. We have been unable to conclude that the Congress intended to authorize a few associations, or even one association, to proceed on a "windfall" basis in contradistinction to all the rest of the industry.

Realistically, it is true in the sense that, with the issues now being sharply focused, the Congress is in a position to examine this matter anew and to now make its present intent clear beyond doubt. That being the case, we would respectfully and strongly urge the Congress to reject any special provisions authorizing a "windfall" conversion and to thereby avoid the setting of even a single precedent in favor of this damaging approach.

I would be glad to discuss this matter with you personally at your convenience.

Sincerely,

THOMAS R. BOMAR.

ADDITIONAL VIEWS OF MESSRS. TOWER, BENNETT AND BROCK

In general, we agree with most of the provisions contained in H.R. 11221, as adopted by the Banking Committee. We believe that the Committee acted wisely and appropriately in increasing deposit insurance coverage to $25,000, allowing a number of test conversions from mutual to stock form to take place in the savings and loan industry, extending Regulation Q until December 31, 1975, and establishing a National Commission on the Electronic Transfer of Funds, as well as on most of the other provisions adopted by the Committee.

However, we do have some reservation about several of the amendments which the Committee adopted, none of which was the subject of hearings in the Banking Committee. They are:

(1) a provision dealing with compliance of State laws; and

(2) a provision increasing the Treasury's authority to lend standby, emergency funds directly to the Federal Home Loan Banks;

(3) a provision allowing the Federal Home Loan Mortgage Corporation to buy mortgages from nonfederally insured thrift institutions.

(1) Section 114 of H.R. 11221 prohibits Federal bank regulatory agencies from adopting any rule, regulation, or order exempting federally chartered depository institutions from complying with State laws or regulations designed to protect the consumer. It is our understanding that this provision grew out of a problem in Wisconsin, where several federally chartered savings and loan associations exercised the escalator clause on their outstanding mortgages, as allowed by the Home Loan Bank Board, before the expiration of a three-year waiting period required under Wisconsin law.

However, this amendment would apply in many other situations and in other States. Indeed, it is for that very reason that we question the appropriateness of adopting this provision without knowing what its impact may be. No hearings were held on this issue to determine exactly which Federal regulations may be involved or affected, or what impact this provision may have on the relationship which exists between Federal regulations and State statutes.

We are not necessarily opposed to the provision, and it may be appropriate for the Senate to adopt it. By the same token, however, it may also be unwise to adopt it. In the absence of hearings, we have no way of knowing the answers to these and other questions, and, for that reason, we believe it should not have been adopted without being given appropriate consideration by the members of the Banking Committee.

(2) Section 113 of H.R. 11221 would increase the Treasury's authority to lend directly to the Federal Home Loan Banks by another $3 billion. The purpose of this provision is to replenish the $3 billion in direct Treasury lending authority which is to be used as part of the Federal financing package to help housing, announced by the President on May 10 of this year.

At the present, the Treasury, has authority to lend $4 billion in standby funds to the Federal Home Loan Banks in emergency situations. When Congress first granted this authority to the Treasury in 1950, it was noted that it would be used in ". . . any possible future emergency." Subsequent extension and expansion of the authority in 1969 expressed the intention that it would be used to help stabilize the mortgage market during periods of tight money.

The intent of section 113 of H.R. 11221 to replenish the fund by an additional $3 billion goes even one step further. It is clear that these funds were to be used only as a last resort, when all other actions failed. Certainly, it was not intended to provide an ongoing source of funds for the housing market. Yet the replenishment of the funds by $3 billion sems to imply that Treasury funds are not just available in emergency, but that they constitute an unlimited source of mortgage credit whenever money conditions become tight. The next step will be to provide an ongoing source of funds directly from the Treasury to housing under any conditions.

The replenishment of those emergency funds creates an illusion that housing can be aided in the long run through direct Treasury financing. It must be recognized, however, that the Treasury itself will need to borrow the funds needed to replenish its capacity for direct lending, which only adds to the already burgeoning demand for credit in our economy. The end result will be upward pressure on interest rates, which will accentuate the problems that thrift instiutions presently face in being unable to compete for funds. In our opinion, it would be shortsighted to believe that housing can continue to be supported by this type of direct Treasury lending.

With this move, we are only perpetuating the trend toward nationalization of our housing markets, the end result of which will be the demise of our private savings and loan system. Shortsighted individuals in the home financing system may praise this extension of the Treasury authority, but surely farsighted ones will realize that, if this trend continues, savings and loan associations will become mere field offices of the Department of Housing and Urban Development or the Federal Home Loan Bank system, or whatever other government agency may be created to administer these funds. This action should be avoided if we are to keep our thrift institutions as viable and responsive as possible.

WALLACE BENNETT,
JOHN TOWER,
BILL BROCK.

ADDITIONAL VIEWS OF MESSRS. TOWER AND BENNETT

Section 115 of H.R. 11221 would authorize the Federal Home Loan Mortgage Corporation to purchase residential mortgages from nonfederally insured depository institutions. Presently the Corporation is authorized to buy mortgages only from federally insured institutions. Non-federally insured institutions can sell their mortgages at the present to the Federal National Mortgage Association, an independent tax-paying institution.

This amendment would allow the nonfederally insured institutions operating in Massachusetts to avail themselves of the subsidized conventional mortgage plan. However, a number of financial institutions in states which have their own state insurance corporations would continue to be excluded from this program. These states include Maryland and Ohio. Additionally, mortgage bankers in all states cannot avail themselves of this program while retaining their servicing contracts. Thus, equity demands that we either leave the system as it stands, recognizing that any government subsidy, which operates through channels effectively excluding some participants, is discriminatory to some extent. Or, we must open the channels so that all may participate. The two choices which we have are either to strike section 115 or to enlarge it so that all individuals or corporations may sell their mortgages to the Federal Home Loan Mortgage Corporation and retain their servicing contracts.

WALLACE F. BENNETT.
JOHN TOWER.

Mr. TOWER. Mr. President, I concur with my distinguished friend from New Hampshire and commend him on the work that he has done on the bill, and I urge its adoption.

Mr. President, I call up an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 22, strike out lines 11 through 23 and insert in lieu thereof the following:

EXPANDED AUTHORITY OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE MORTGAGES.

SEC. 115. Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting after the first sentence thereof the following new sentences: "In addition, the Corporation is authorized to purchase, and make commitments to purchase, residential mortgages from any financial institution the deposits or accounts of which are insured under the laws of any State, from any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program, or from any other person approved by the Corporation for purpose of this sentence, except that the authority conferred by this sentence may be exercised only to the extent that commitments are being made based on funds made available pursuant to the exercise of the authority conferred by section 11(i) of the Federal Home Loan Bank Act. The servicing of any

mortgage purchased hereunder may be performed by the seller or by any other qualified seller with whom the seller may contract."

Mr. TOWER. Mr. President, section 115 of H.R. 11221, as reported by the committee, will allow nonfederally insured financial institutions to sell their mortgages to the Federal Home Loan Mortgage Corporation. At present, the Corporation is authorized to buy mortgages from federally insured institutions.

However, this section of the bill would apply only to depository institutions in States where more than 20 percent of the deposits in all depository institutions are nonfederally insured. In other words, it would apply only in Massachusetts, where most mutual savings banks are insured under a State insurance fund.

In States where non-federally-insured institutions hold less than 20 percent of the deposits in that State, depository institutions would not be allowed to sell their mortgages to the corporation. In other words, State insured institutions in States such as Maryland and Ohio, where less than 20 percent of the total deposits are insured under a State insurance fund, would be excluded from the program.

The amendment which I am offering would broaden the provision in H.R. 11221 so that all non-federally-insured institutions, as well as qualified mortgage bankers, could sell their mortgages to the FHLMC. This would make qualifications for selling mortgages to the corporation more closely in line with the secondary market activities of FNMA, which also buys mortgages from a broad spectrum of mortgage lending institutions while, at the same time, providing equitable treatment for all mortgage lenders, whether federally insured or not.

Mr. President, this amendment has been discussed with the distinguished manager of the bill, the Senator from New Hampshire (Mr. McINTYRE), and it is my understanding that he is prepared to accept it.

Mr. McINTYRE. Mr. President, I yield myself as much time as I need.

The amendment offered by the distinguished Senator from Texas, the ranking member of the Financial Institutions Subcommittee, simply broadens the Brooke amendment that we had in committee, and allows non-federally-insured financial institutions in Massachusetts to sell mortgages, That is what the Brooke amendment would do, and I see no objection to this. As a matter of fact, it is a good amendment, and we are ready to accept it.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment by the Senator from Texas (Mr. TOWER).

The amendment was agreed to.

Mr. TOWER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following:

TITLE III—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

SEC. 301. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

SEC. 302. As used in this title—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

SEC. 303. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sums payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 304. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

Mr. TOWER. Mr. President, this amendment provides for the equitable disposition of abandoned money orders and traveler's checks.

The proceeds will be paid over to the State in which the instrument was purchased. If the State of origin is unknown, the amount will accrue to the State in which the issuing organization has its principal place of business.

This is identical, Mr. President, to S. 2705, which was passed by the Senate back on February 28.

The matter has been discussed with the distinguished manager of the bill. It is my understanding that he is prepared to accept the amendment.

Mr. McINTYRE. The Senator from Texas is correct. It has been discussed with my staff and myself, and we have no objection. It was adopted by the Senate in February, and I agree to accept it.

I yield back my time.

Mr. TOWER. Mr. President, I yield back the remainder of the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas (Mr. TOWER).

The amendment was agreed to.

The PRESIDING OFFICER. Are there any further amendments? The bill is open to further amendment.

Mr. TOWER. Mr. President, I send to the desk an amendment, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TOWER's amendment is as follows:

At the appropriate place, insert the following:

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION SECONDARY RESERVE ADJUSTMENT

SEC. . Paragraph (1) of subsection (d) of section 404 of the National Housing Act, as amended (12 U.S.C. 1727), is amended by inserting "(A)" immediately after "(d)(1)" and by adding at the end thereof the following:

"(B)(i) As used in this subparagraph (B), 'minimum net reduction year' means a year in which, at the close of December 31, the aggregate of the primary reserve and secondary reserve equals or exceeds 1¼ per centum of the total amount of all accounts of insured members of all insured institutions, and 'beginning balance' means, with respect to each insured institution, the

amount of such institution's pro rata share, if any, of the secondary reserve as of the close of December 31, 1973, plus any amount or amounts which, after such close, shall have been transferred to such institution under the last sentence of subsection (e) of this section.

"(ii) In May of each year succeeding each of the first ten minimum net reduction years occurring after December 31, 1973, the Corporation shall reduce the amount of each insured institution's pro rata share, if any, of the secondary reserve as of the preceding December 31 by making to the extent available, a cash refund to each such institution of the difference, if any, between such pro rata share and the applicable percentage of its beginning balance prescribed in the following table:

	Percent of beginning balance
"Minimum net reduction year:	
"1	98.1818182
"2	94.5454546
"3	89.0909091
"4	81.8181818
"5	72.7272727
"6	61.8181818
"7	49.0909091
"8	34.5454546
"9	18.1818182
"10	0.0000000".

Mr. TOWER. Mr. President, this amendment provides a cash rebate to those savings and loan associations whose balances in the secondary reserve funds of the Federal Savings and Loan Insurance Corp. are so large that they would never be phased out under any premium plan. The Federal Home Loan Bank Board and the Office of Management and Budget suggested last year, when this subject came to the floor of the Senate, that they be allowed time to work out technical legislation for phasing out repayments over a period of time, and stated that they would give this high priority in the coming year.

The amendment I have called up is the result of a thorough study by the Senate and the appropriate Federal agencies, and I recommend that the amendment be agreed to.

It is my understanding that the Senator from California, who cosponsored this amendment with me, wishes to speak to the matter, so I yield him such time as he may require.

Mr. CRANSTON. Mr. President, I thank the Senator from Texas very much. I appreciate his leadership in this very important effort.

Last year, I joined the Senator from Texas in supporting his amendment regarding repayment of excess premiums in the secondary reserve of the Federal Savings and Loan Insurance Corp. to the appropriate savings and loan associations, most of which are located in the rapid growth States of recent years such as California and Texas. Because of the complexity of creating a withdrawal plan, the amendment was withdrawn pending technically accurate legislation to carry out the rebate from the administration. Thanks to the efforts of the Senator from New Hampshire, we presently have this legislation before us.

There are approximately 55 savings and loan institutions in California who have accumulated sufficiently large balances in the secondary reserve that it is unlikely that their shares will be amortized within a reasonable period of time under the present premium repayment structure.

It is only equitable that we do not penalize those institutions, who have paid in excessive amounts because of their high rate of growth and done an aggressive job in the thrift and homeownership market. And more importantly this refund will provide additional funds for housing. I am pleased that the administration has been cooperative in working out this complex problem, and I thank Senator TOWER for his diligence and concern, and for the opportunity to join him in this effort.

Mr. TOWER. Mr. President, it is my understanding that the distinguished manager of the bill is prepared to accept the amendment.

Mr. McINTYRE. Mr. President, I have no objection to this amendment, and I am prepared to accept it. I yield back the remainder of my time.

Mr. TOWER. I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER (Mr. GRAVEL). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas (Mr. TOWER).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call be charged equally to both sides.

Mr. McINTYRE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, I call up an amendment to section 111 of the Federal Credit Union Act, which is at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

SEC. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended by striking the period at the end thereof and adding ", *provided, however,* that reasonable health, accident, and similar insurance protection shall not be considered compensation under regulations promulgated by the Administrator."

Mr. TOWER. Mr. President, this amendment would amend section 111 of the Federal Credit Union Act (12 U.S.C. 1761) to permit Federal credit unions to provide reasonable health, accident, and similar insurance protection for volunteer supervisory board and committee members in those credit unions on a more simplified and equitable basis than now permitted. Section 111 prohibits payment of compensation to members of the board of directors of the credit union and members of the supervisory committees. That section has been interpreted to permit credit unions to obtain group accident insurance to protect directors and committee members while traveling on official business, but insurance may not otherwise be provided for members of the board of directors, credit committee, or other officials because that would constitute the payment of compensation, which the act prohibits.

The amendment would permit credit unions to provide directors and committee members with reasonable health, accident, and similar insurance protection.

In case of these officials, we are dealing with volunteers who are not paid. Certainly risks incurred in the performance of such services should be covered by insurance, and we believe it should be in keeping with other such contemporary insurance offerings.

It is my understanding that the manager of the bill is prepared to accept the amendment.

Mr. McINTYRE. Mr. President, I yield myself such time as I may need.

I say to my able colleague from Texas that it is my understanding that this amendment would simply try to give a measure of assistance to the management of credit unions who are not being paid for their services but are acting as volunteers.

I have no objection and am prepared to accept the amendment.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment by the Senator from Texas.

The amendment was agreed to.

Mr. McINTYRE. Mr. President, I yield to the distinguished Senator from Alabama.

Mr. SPARKMAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. SPARKMAN'S amendment is as follows:

On page 22 after line 23 insert the following new subsection:

TECHNICAL AMENDMENT

SEC. 116 (a). Section 7(d)(2) of the Act of August 16, 1973 (Public Law 93–100) is amended by striking out "the Commonwealth of Puerto Rico,".

(b) The amendment made by subsection (a) applies with respect to any taxable year or other taxable period beginning on or after August 16, 1973.

Mr. SPARKMAN. Mr. President, the amendment I offer is a technical one to clear up a situation which has developed because the Commonwealth of Puerto Rico was included in the definition of "State" in section 7(d)(2) of Public Law 93–100 approved August 16, 1973.

Public Law 93–100, among other things, directed the Advisory Commission on Intergovernmentatl Relations to make a study of all pertinent matters relating to the application of State "doing business" taxes on out-of-State depositories—commercial banks, mutual saving banks, and saving and loan associations. In addition,

Public Law 93–100 imposed a moratorium until December 31, 1975, on taxation on interstate transactions during which States could impose, with one additional tax, the restricted list of taxes which could have been imposed on any insured depository not having its principal office within such State.

As defined in Public Law 93–100, the term "State" includes the Commonwealth of Puerto Rico. The Commonwealth should not have been included in the definition in this instance because in matters that fall within the purview of Public Law 93–100, the Commonwealth, under Federal Reserve Board regulation (12 CFR part 213), is treated as a "foreign country."

My amendment simply deletes the words "the Commonwealth of Puerto Rico" from definition of "State" in section 7(d)(2) of Public Law 93–100 and reinstates the Commonwealth's position before the enactment of Public Law 93–100.

The matter has been discussed with the floor manager of the bill (Mr. McINTYRE) and with the ranking minority member of the committee (Mr. TOWER) as well as other committee members. Both Senators McINTYRE and TOWER are willing to accept the amendment.

We had not received all the information concerning this matter prior to the committee markup of H.R. 11221. Had the information been available, I feel certain the committee would have included this amendment as a provision of H.R. 11221 when it was reported.

As I said I have discussed this amendment with the chairman of the subcommittee, who is managing the bill, and I hope that he will accept the amendment.

Mr. McINTYRE. Mr. President, the amendment is technical in nature, and I have no objection whatsoever to straightening the RECORD out. I am prepared to accept the amendment.

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

Mr. McINTYRE. I yield.

Mr. TOWER. For the minority, I am prepared to accept the amendment. Indeed, Mr. President, I am a cosponsor of it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. SPARKMAN. Mr. President, I move the adoption of the amendment and yield back the remainder of my time.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Alabama (Mr. SPARKMAN).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BROCK. Mr. President, it has been brought to my attention that an error appears on page 3 of the committee report.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. In the absence of the Senator from Texas, I yield myself such time as I may require.

Mr. President, it has been brought to my attention that there is an error appearing on page 3 of the committee report to accompany H.R. 11221. The footnote on page 3 inadvertently leaves out Tennessee as one of the States that currently provides for conversions of savings and loan associations from mutual to stock form of ownership. I believe the error occurred because information presented in testimony by the Federal Home Loan Bank Board was out of date, and the list of stock States was not properly updated.

So that the legislative history will be accurate, I wish to clarify the record. Section 105(d) of H.R. 11221 would amend section 402(j) of the National Housing Act. Pursuant to section 402(j)(3), 23 "test basis" conversions would be authorized for approval by the Federal Home Loan Bank Board during the period June 30, 1974, to June 30, 1976, as exemptions to the moratorium on conversions—page 15, lines 13–23. Section 402(j)(3) would also permit a Federal savings and loan association to convert to a federally chartered stock savings and loan association in States "the laws of which . . . authorize the chartering of State stock associations"—page 15, lines 23–24; page 16, lines 1–5.

The laws of the State of Tennessee authorize State stock savings and loan associations and have so authorized since May 14, 1973. See acts 1973, chapter 360, section 3, dated May 14, 1973, and the amendment thereof on April 5, 1974, in title 45, Tennessee Code Annotated, section 1302. I also have been advised by counsel that a Tennessee State chartered mutual can convert to a State chartered stock association. Thus, the footnote at the bottom of page 3 of Senate Report No. 92–902 issued by the Senate Banking Committee is incorrect, for Tennessee was inadvertently omitted.

If I may have the attention of the manager of the bill briefly, I would ask that this legislative history be considered in the conference report in order to correct this situation.

Mr. McINTYRE. Mr. President, in response to my good friend, I am delighted that he has found out that his State is one of the States that enable savings and loan institutions to convert from mutual to stock. We want to set the record straight. That is an important fact. In our debates in executive session we made sure that we do not want to hurt any State where this practice was outlawed unless the law was changed and there was a test case. So the legislative history indicates that Tennessee is one of the States, and we will protect its interests when we go to conference.

Mr. TOWER. Mr. President, I yield myself such time as I may need under the bill, and I yield now to the Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I appreciate very much having the distinguished Senator yield to me.

I commend my colleagues on the Senate Banking Committee for the work they have done on this bill. I enjoyed my 4 years on the committee, and I continue to follow its work with great interest.

There is one problem I see in the bill on which I would appreciate clarification. There are some States that have fixed usury laws which put a limitation on loan interest rates—in Illinois we have an 8-percent-usary rate—but notice that the bill, in section 107, states, in part:

> . . . the Federal supervisory agencies shall give due consideration to existing market interest rates, so that consumer savers receive a fair and appropriate rate of interest on their savings.

I am certainly in favor of fair and appropriate rates of interest for savers. It is absolutely essential that they be provided fair rate; otherwise the funds would be diverted to other investments.

Although it is not in the language of the bill, I would ask, Do I assume that the Federal advisory agencies would also take into account the financial conditions of thrift institutions in setting interest rate ceilings? The report states that this subsection is not intended to alter existing practices of regulatory authorities to establish rate ceilings consistent with the ability of thrift institutions to pay such rates.

Can I assume, although this language is in the report, but is not in the bill's language, that consideration will be given to the financial condition of financial institutions in setting the interest rate ceilings? I ask this question of both the majority and minority floor managers of the bill; whether it would not be possible, in view of the grave problems that could potentially be created, that the sense of the report language could not be incorporated in the bill itself, possibly in conference?

Mr. McINTYRE. Mr. President, the distinguished Senator from Illinois is absolutely correct in what he has just said. We have to protect the consumer savers and the mortgage home buyers. We will be alert to the fact. I will take under consideration clarifying this point without any doubt. The usury laws are important to the States. We are in an economic climate today that is causing a confrontation with State laws. We will be happy to do as the Senator from Illinois has requested.

Mr. TOWER. Mr. President, let me say to the Senator from Illinois that the intent is as he has stated it. I join the Senator from New Hampshire in saying that I will not be reluctant to see that the language is placed in the bill.

One further point. A number of State legislatures could review their somewhat out-of-date usury laws and update them along the lines of the real world we live in today. I am not being critical of the Senator's State, because this is something that is prevalent in other States. The old usury laws were designed to protect the small borrower in another day, and I think many States could review their usury laws.

Mr. PERCY. I appreciate the spirit of the Senator's comments. He is very mild, indeed, in his comments. Coming from Illinois, let me say that I feel that my State is out of step with reality in this matter. We are not living in the real world with an 8-percent usury law. It must be increased to a realistic level. I hope that this can be done cooperatively between the State legislature and our

Governor, whose approval will be required and whose signature would be required on that law. Because of the current usury law, saving and loan associations are now squeezed in between rates they pay to remain competitive and rates they are limited to on loans, and certainly we do not want to put them in an untenable position.

I am most grateful to my colleagues for their comments.

I have also discussed this matter with the distinguished chairman of the committee, the Senator from Alabama (Mr. SPARKMAN), and I appreciate his sympathetic approach to this problem, as well.

Mr. TOWER. Mr. President, I reserve the remainder of my time on the bill.

AMENDMENT NO. 1438

Mr. BROCK. Mr. President, I call up my amendment No. 1438 and 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:

TITLE III—FAIR CREDIT BILLING

§ 301. Short title

This title may be cited as the "Fair Credit Billing Act".

§ 302. Declaration of purpose

The last sentence of section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by striking out the period and inserting in lieu thereof a comma and the following: "and to protect the consumer against inaccurate and unfair credit billing and credit card practices."

§ 303. Definitions of creditor and open end credit plan

(a) The first sentence of section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows: "The term 'creditor' refers only to creditors who are card issuers, or who regularly extend, or arrange for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, whether in connection with loans, sales of property or services, or otherwise."

(b) Section 103(i) of such Act (15 U.S.C. 1602(i)) is amended to read as follows:

"(i) The term 'open end credit plan' refers to a plan prescribing the terms of credit transactions which may be made thereunder from time to time and under the terms of which either a finance charge may be computed on the outstanding unpaid balance from time to time thereunder, or a credit card is issued."

§ 304. Disclosure of fair credit billing rights

(a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end thereof a new paragraph as follows:

"(8) A statement, in a form prescribed by regulations of the Board of the protection provided by sections 161 and 170 to an obligor and the creditor's responsibilities under sections 162 and 170. With respect to each of two billing cycles per year, at semiannual intervals, the creditor shall transmit such statement to each obligor to whom the creditor is required to transmit a statement pursuant to section 127(b) for such billing cycle."

(b) Section 127(c) of such Act (15 U.S.C. 1637(c)) is amended to read:

"(c) In the case of any existing account under an open end consumer credit plan having an outstanding balance of more than $1 at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the next statement required by subsection (b)."

§ 305. Disclosure of billing contact

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end thereof a new paragraph as follows:

"(11) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor."

§ 306. Billing practices

The Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"Chapter 4—CREDIT BILLING

"Sec.
"161. Correction of billing errors.
"162. Regulation of credit reports.
"163. Length of billing period.
"164. Prompt crediting of payments.
"165. Crediting excess payments.
"166. Prompt notification of returns.
"167. Use of cash discounts.
"168. Prohibition of tie-in services.
"169. Prohibition of offsets.
"170. Rights of credit card customers.
"171. Relation to State laws.

"§ 161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 127(b)(11) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127(a)(8)) from the obligor in which the obligor—

"(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,

"(2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error, and

"(3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error,

the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

"(A) not later than thirty days after the receipt of the notice, send a written acknowledgement thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

"(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

"(i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

"(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the credit's billing statement reflects goods not delivered to the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination.

After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.

"(b) For the purpose of this section, a 'billing error' consists of any of the following:

"(1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.

"(2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.

"(3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

"(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

"(5) a computation error or similar error of an accounting nature of the creditor on a statement.

"(6) Any other error described in regulations of the Board.

"(c) For the purposes of this section, 'action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)' does not include the sending of statements of account to the obligor following written notice from the obligor as specified under subsection (a), if—

"(1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

"(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

"(d) Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B)(ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) that he believes such account to contain a billing error solely because of the obligor's failure to pay the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

"(e) Any creditor who fails to comply with the requirements of this section or section 162 forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed $50.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in section 161(a), a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the

obligor under section 161(a)(2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

"(b) If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the amount of the obligor is delinquent because the obligor has failed to pay an amount which he has indicated under section 161(a)(2), unless the creditor also reports that the amount is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

"(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

"§ 163. Length of billing period

"(a) If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

"(b) Subsection (a) does not apply in any case where a creditor has been prevented, delayed, or hindered in making timely mailing or delivery of such periodic statement within the time period specified in such subsection because of an act of God, war, natural disaster, strike, or other excusable or justifiable cause, as determined under regulations of the Board.

"§ 164. Prompt crediting of payments

"Payments received from an obligor under an open end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulations shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payment in readily identifiable form in the amount, manner, location, and time indicated by the creditor to avoid the imposition thereof.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due on an open end consumer credit account, the creditor shall promptly (1) upon request of the obligor refund the amount of the overpayment, or (2) credit such amount to the obligor's account.

"§ 166. Prompt notification of returns

"With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debit for services which were the subject of such sale, the seller shall promptly transmit to the credit card issuer a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

"§ 167. Use of cash discounts

"(a) With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

"(b) With respect to any sales transaction, any discount not in excess of 5 per centum offered by the seller for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the Board.

"§ 168. Prohibition of tie-in services

"Notwithstanding any agreement to the contrary, a card issuer may not require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

"§ 169. Prohibition of offsets

"(a) A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless—

"(1) such action was previously authorized in writing by the cardholder in accordance with a credit plan whereby the cardholder agrees periodically to pay debts incurred in his open end credit account by permitting the card issuer periodically to deduct all or a portion of such debt from the cardholder's deposit account, and

"(2) such action with respect to any outstanding disputed amount not be taken by the card issuer upon request of the cardholder.

In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date. Such written authorization shall be deemed to exist if the card issuer has previously notified the cardholder that the use of his credit card account will subject any funds which the card issuer holds in deposit accounts of such cardholder to offset against any amounts due and payable on his credit card account which have not been paid in accordance with the terms of the agreement between the card issuer and the cardholder.

"(b) This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

"§ 170. Rights of credit card customers

"(a) Subject to the limitation contained in subsection (b), a card issuer who has issued a credit card to a cardholder pursuant to an open end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; (2) the amount of the initial transaction exceeds $50; and (3) the place where the initial transaction occurred was in the same State as the mailing address previously provided by the cardholder or was within 100 miles from such address, except that the limitations set forth in clauses (2) and (3) with respect to an obligor's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card (A) is the same person as the card issuer, (B) is controlled by the card issuer, (C) is under direct or indirect common control with the card issuer, (D) is a franchised dealer in the card issuer's products or services, or (E) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card insurer.

"(b) The amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding in the preceding sentence, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (1) late charges in the order of their entry to the account; (2) finance charges in order of their entry to the account, (3) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

"§ 171. Relation to State laws

"(a) This chapter does not annul, alter, or affect, or exempt any person subject to the provisions of this chapter from complying with, the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.

"(b) The Board shall by regulation exempt from the requirements of this chapter any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement."

§ 307. Conforming amendments

(a) The table of chapters of the Truth in Lending Act is amended by adding immediately under item 3 the following:

"4. CREDIT BILLING ..... 161".

(b) Section 111(d) of such Act (15 U.S.C. 1610(d)) is amended by striking out "and 130" and inserting in lieu thereof a comma and the following: "130, and 166".

(c) Section 121(a) of such Act (15 U.S.C. 1631(a)) is amended—

(1) by striking out "and upon whom a finance charge is or may be imposed"; and

(2) by inserting "or chapter 4" immediately after "this chapter".

(d) Section 121(b) of such Act (15 U.S.C. 1631(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

(e) Section 122(a) of such Act (15 U.S.C. 1632(a)) is amended by inserting "or chapter 4" immediately after "this chapter".

(f) Section 122(b) of such Act (15 U.S.C. 1632(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

§ 308. Effective date

This title takes effect upon the expiration of one year after the date of its enactment.

TITLE IV—AMENDMENTS TO THE TRUTH IN LENDING ACT

§ 401. Advertising; more-than-four-installment rule

(a) Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661–1665) is amended by adding at the end thereof a new section as follows:

"§ 146. More-than-four-installment rule

"Any advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit repayable in more than four installments shall, unless a finance charge is imposed, clearly and conspicuously state, in accordance with the regulations of the Board:

" 'THE COST OF CREDIT IS INCLUDED IN THE PRICE QUOTED FOR THE GOODS AND SERVICES.' "

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"146. More-than-four-installment rule.".

§ 402. Agricultural credit exemption

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end thereof a new paragraph as follows:

"(5) Credit transactions primarily for agricultural purposes in which the total amount to be financed exceeds $25,000."

§ 403. Administrative enforcement

(a) Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(b) Section 108(a) of such Act (15 U.S.C. 1067(a)) is amended by adding at the end thereof a new paragraph as follows:

"(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association."

§ 404. Liens arising by operation of State law

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended—

(1) by striking out "is" the first time it appears in the first sentence of subsection (a) and inserting in lieu thereof ", including any such interest arising by operation of law, is or will be"; and

(2) by inserting after "obligor" the second time it appears in the first sentence of subsection (b) the following: ", including any such interest arising by operation of law,".

§ 495. Time limit for right of rescission

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by adding at the end thereof a new subsection as follows:

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material disclosures required under this chapter have not been delivered to the obligor."

§ 406. Good faith compliance

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

§ 407. Liability for multiple disclosures

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(g) The multiple failure to disclose to any person any information required under this chapter to be disclosed in connection with a single account under an open end consumer credit plan, other single consumer credit sale, consumer loan, or other extension of consumer credit, shall entitle the person to a single recovery under this section but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries."

§ 408. Civil liability

(a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of the failure;

"(2)(A) in the case of an individual action twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of $100,000 or 1 per centum of the net worth of the creditor; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended by inserting after "this section" the first place it appears the following: "for any failure to comply with any requirement imposed under this chapter,".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended by striking out "chapter" and inserting in lieu thereof "title".

(d) Section 130 of such Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(h) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection (a)(2) against any amount owing to such creditor by such person, unless the amount of the creditor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party."

(e) The amendments made by sections 406, 407, and 408 shall apply in determining the liability of any person under chapter 2 or 4 of the Truth in Lending Act, unless prior to the date of enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise.

§ 409. Full statement of closing costs

Section 121 of the Truth in Lending Act (15 U.S.C. 1631) is amended by adding at the end thereof a new subsection as follows:

"(c) For the purpose of subsection (a), the information required under this chapter shall include a full statement of closing costs to be incurred by the consumer, which shall be presented, in accordance with the regulations of the Board—

"(1) prior to the time when any downpayment is made, or

"(2) in the case of a consumer credit transaction involving real property, at the time the creditor makes a commitment with respect to the transaction.

The Board may provide by regulation that any portion of the information required to be disclosed by this section may be given in the form of estimates where the provider of such information is not in a position to know exact information."

§ 410. Business use of credit cards

(a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1644) is amended by adding the following new section at the end thereof:

"§ 135. Business credit cards

"The exemption provided by section 104(1) does not apply to the provisions of sections 132, 133, and 134, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 133, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 133."

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"135. Business credit cards.".

§ 411. Identification of transaction

Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period and a brief identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the Board sufficient to enable the obligor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished."

§ 412. Exemption for State lending agencies

Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended by striking the period at the end thereof and adding the following: "or to a consumer credit transaction in which an agency of a State is the creditor."

§ 413. Liability of assignees

(a) Chapter 1 of the Truth in Lending Act (15 U.S.C. 1601–1613) is amended by adding at the end thereof a new section as follows:

"§ 115. Liability of assignees

"Except as otherwise specifically provided in this title, any civil action for a violation of this title which may be brought against the original creditor in any credit transaction may be maintained against any subsequent assignee of the original creditor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary."

(b) The analysis of such chapter is amended by adding at the end thereof a new item as follows:

"115. Liability of assignees.".

§ 414. Credit card fraud

Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be coun-

terfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(d) Whoever knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

"(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

"(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisioned not more than ten years, or both."

§ 415. Grace period for consumers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period."; and

(2) by amending subsection (b)(10) to read as follows:

"(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period."

§ 416. Disclosure by card issuers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding the following new subsection:

"(d) Card issuers who also engage in other than open-end credit transactions shall not be required to make disclosures required by this section with respect to such transactions."

§ 417. Effective date

This title takes effect upon the date of its enactment, except that section 409 and 411 take effect upon the expiration of one year after the date of its enactment.

TITLE V—EQUAL CREDIT OPPORTUNITY

§ 501. Short title

This title may be cited as the "Equal Credit Opportunity Act".

§ 502. Findings and purpose

The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

§ 503. Amendment to the Consumer Credit Protection Act

The Consumer Credit Protection Act (Public Law 90–321), is amended by adding at the end thereof a new title VII:

"TITLE VII—EQUAL CREDIT OPPORTUNITY

"Sec.
"701. Prohibited discrimination.
"702. Definitions.
"703. Regulations.
"704. Administrative enforcement.
"705. Relation to State laws.
"706. Civil liability.
"707. Effective date.

"§ 701. Prohibited discrimination

"(a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(b) An inquiry of marital status shall not constitute discrimination for purposes of this title: *Provided*, That said inquiry is for the purpose of ascertaining the creditors' rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.

"§ 702. Definitions

"(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

"(b) The term 'applicant' means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

"(c) The term 'Board' refers to the Board of Governors of the Federal Reserve System.

"(d) The term 'credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor, whether or not a finance charge or late payment charge is imposed.

"(e) The term 'creditor' means any person who regularly extend, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

"(f) The term 'discriminate' means to take any arbitrary action based on any characteristic attributable to the sex or marital status of an applicant.

"(g) The term 'person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

"(h) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

"§ 703. Regulations

"The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to provide for such adjustments and exceptions to facilitate compliance therewith. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act.

"§ 704. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under:

"(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency,

"(B) member banks of the Federal Reserve System (other than national banks), by the Board,

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

"(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

"(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

"(5) The Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

"(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of

whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

"§ 705. Relation to State laws

"(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, or waiving inchoate rights to property, shall not constitute discrimination under this title: *Provided, however,* That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

"(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title. For the purposes of this subsection, only those State property laws in effect on the date of enactment of this Act shall be considered or applied: *Provided,* That said laws shall be considered or applied only so long as they are not made more discriminatory in nature by State action subsequent to the date of enactment of this Act.

"(c) When both parties to a marriage separately and voluntarily apply for and obtain credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges under the laws of any State.

"(d) This title shall preempt any State law that prohibits the separate extension of credit to both parties to a marriage when each party voluntarily applies for separate credit from the same creditor and each party would be eligible for separate credit but for his or her marital status.

"(e) Except as otherwise provided in this title, the applicant shall have the option of pursuing remedies under the provisions of this title in lieu of, but not in addition to, the remedies provided by the laws of any State or governmental subdivision relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"§ 706. Civil liability

"(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant acting either in an individual capacity or as a representative of a class.

"(b) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, as determined by the court, in addition to any actual damages provided by section 706(a): *Provided, however,* That in pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.

"(c) Section 706(b) notwithstanding, any creditor who fails to comply with any requirement imposed under this title may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed $100,000. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

"(d) When a creditor fails to comply with any requirement imposed under this title, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.

"(e) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under the provisions of subsections (a), (b), and (c) of this section.

"(f) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(g) Without regard to the amount in controversy, any action under this title may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

"(h) An action may be brought under this section regardless of whether administrative remedies have been exhausted by the applicant bringing such action. The exhaustion of administrative remedies by an applicant shall not preclude such applicant from bringing an action under the provisions of this section.

"(i) An action brought under this section shall not preclude the applicant in such action from bringing any action based on any provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"§ 707. Effective date

"This title takes effect upon the expiration of six months after the date of its enactment.".

Mr. TOWER. Mr. President, I ask unanimous consent that Tom Brooks, of the committee staff, be granted the privilege of the floor during the debate on H.R. 11221 and amendments thereto.

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

Mr. BROCK. Mr. President, I offer the amendment on behalf of myself and of the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. President, the Truth in Lending Act amendments are important to every American household.

This vital legislation would amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, update the Truth-in-Lending Act, prohibit credit card fraud, and prohibit discrimination in all credit transactions on account of sex or marital status.

First, I would like to deal with title V of the amendment which would add a new provision to the Consumer Credit Protection Act to assure equal credit opportunity. This title is taken from S. 3492 which Senators BENNETT, BROOKE, CRANSTON, PACKWOOD, TOWER and I introduced on May 14, 1974. It prohibits discrimination on the basis of sex or marital status in the granting of credit.

It is a refinement of title III of S. 2101 which passed the Senate on July 23, 1973, and was referred to the House Banking and Currency Committee where no action has been taken to date.

I receive many letters every day from all over America from both men and women who cannot comprehend the lackadaisical attitude of Congress toward such an important problem. It is hypocritical to constantly assure constituents that action will be taken to remove this barrier to women's equality—and nothing is done. Assuring equal credit lending practices requires the cooperation of many people, but we—Congress—must assume the primary role: that of instigating laws to prohibit credit discrimination on the basis of sex or marital status.

The elimination of sex discrimination and the assurance of equal opportunity for women in American society is a great but unnecessary problem—one which my Senate colleagues and I hope to alleviate with the passage of the Equal Credit Opportunity Act. Admittedly, the granting of credit to credit-worthy women is only one aspect of equal rights, but it is an important one. Part of the problem is the difficulties people have in recognizing the many facets of discrimination against women. Equal rights do not come bundled up in one neat package. Many, many problems must be solved before any progress can be made. Unfair credit lending is one of these problems. Consider the vastness of the role credit plays in American economic life: homes, cars, clothing, businesses are nearly always acquired on credit.

It is not fair for a woman to be denied equal access to these necessities simply because she was born female. We do not suggest that a woman be granted credit because she is a woman. We believe women should be allowed a choice—that is, after all, the premier purpose of women's rights: not being forced to choose one lifestyle or another, but being free to choose any option available to men.

Due to our heritage, we are raised to consider women "the weaker sex." People never questioned this idea until now. No longer is this true. Ideas are changing—now so must our laws. It is important not only that laws be created to enable women to obtain credit, but that laws be supported by women, credit lenders, and by society at large. A successful law depends on its practicality, visibility, strength of purpose and fairness. I believe the Equal Credit Opportunity Act is such a law. It is now up to us to initiate action.

The Senator from Wisconsin (Mr. PROXMIRE) and I seek to attach this amendment to H.R. 11221, the depository institutions amendment, because we feel that women's rights have taken the back seat for too long. S. 2101 has been in hibernation in the House for nearly 1 year. It is mandatory that women be granted the privilege of obtaining credit. Every consumer deserves an equal opportunity for access to the credit market, and that credit should never be withheld because of sex or any other factor not related to ability and willingness to repay the loan. We have waited long enough to take action—now is the time.

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

Mr. PROXMIRE. Mr. President, I offer, along with the Senator from Tennessee (Mr. BROCK), an amendment substantially along the lines of S. 2101 which passed the Senate last July and is now before the House Committee on Banking and Currency. As it passed the Senate last July, S. 2101 had three titles. Title I, called the Fair Credit Billing Act, required the prompt resolution of billing disputes and prohibited other unfair credit billing practices. Title II made a series of largely technical amendments to the Truth in Lending Act. Title III prohibited discrimination in the granting of credit on the basis of sex or marital status.

The amendment offered by Senator BROCK and me includes the exact language of the first two titles of S. 2101 as passed by the Senate. Our amendment also includes the latest rewrite of the provision barring sex or marital-status discrimination as included in S. 3492, introduced by Senator BROCK on May 14, 1974. However, there are no major changes in the provision already passed by the Senate.

Mr. President, my Subcommittee on Consumer Credit has worked long and hard on S. 2101. Like all legislation, it is the product of compromise. There are some provisions in the bill I do not like. There are other provisions I would like to see in the bill. I am sure other Senators feel the same way. But, on the whole, it is a good bill and one which significantly advances the cause of consumer protection. I am greatly disappointed, therefore, that the House Banking Committee has not seen fit to act upon S. 2101.

Since we are approaching the end of a long session, there is a good chance that S. 2101 might die in the 93d Congress. I believe this would be most unfortunate for the consumer. There are many provisions in S. 2101 which are relatively noncontroversial, including title I, the Fair Credit Billing Act. There is also a general consensus that discrimination in credit on the basis of sex or marital status should be prohibited. I hope we can find a way, together with our colleagues in the House, to expedite action on these relatively noncontroversial matters while reserving until next year the more controversial parts of S. 2101.

Accordingly, Mr. President, I am offering, along with Senator BROCK, a revised version of S. 2101, as an amendment to the pending bill, H.R. 11221, in the hope that we can persuade the House conferees to agree to as many of the provisions of S. 2101 as may be possible.

The PRESIDING OFFICER (Mr. ALLEN). Who yields time?

Mr. McINTYRE. Mr. President, I yield myself 2 minutes.

I say to the Senator from Tennessee and the Senator from Wisconsin that we are perfectly willing to accept this proposed amendment and take this matter to conference.

I do think, Mr. President, that we should point out that the House bill, as we go to conference, will only have positions on two or three of the many, many issues we will have.

We can only promise the distinguished Senator from Tennessee and his cosponsor, the Senator from Wisconsin, to do our very best at the conference to see if we can get our brothers in the House to see the good and the rationale behind this amendment.

Mr. BROCK. Mr. President, let me first express my very sincere gratitude to the manager of the bill. He has voted for the proposed legislation on his part and has supported it. I have no fears about his support of the basic concept. I am grateful for his acceptance of the amendment.

I do think that, having acted twice now, the Senate is in a position to begin to insist that the House match its deeds with its words.

We have a problem in this country. Women simply cannot get credit—either commercial credit, credit for home loans, credit for personal loans, or consumer credit—on the same basis as men. It is inexcusable. It is important that they be given access to the economy of this Nation. It is important not only to women, but to the Nation. It is absolutely insane that this condition should continue to obtain when we know it is wrong.

I hope that the House, in its wisdom, will accept the logic of this amendment; because I am quite confident that if the matter were given to the House for a vote, it would pass almost as unanimously as it did in the Senate.

Mr. GURNEY. Mr. Presdent, will the Senator yield?

Mr. BROCK. I yield.

Mr. GURNEY. Mr. President, I would very much like to have my name added as a cosponsor of the Senator's amendment, if he will allow me to do so.

Mr. BROCK. Mr. President, I ask unanimous consent that the name of the Senator from Florida be added as a cosponsor of the amendment.

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

Mr. GURNEY. I thank the Senator.

Mr. BROCK. Mr. President, I am prepared to yield back the remainder of my time.

I again thank the Senator from New Hampshire for accepting the amendment.

Mr. McINTYRE. Mr. President, we are willing to accept the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

Mr. CHILES. Mr. President, on behalf of Senator GURNEY and myself, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 15, line 19, strike the words "subsequent to May 22, 1974,".

On page 15, line 18, after the word "enacts", insert the words "subsequent to May 22, 1974,".

Mr. CHILES. Mr. President, the Florida law dealing with Florida stock associations which became effective by the Governor's signature on June 19, 1973, under chapter 665.717, section 5, reads as follows:

This Act shall take effect upon becoming law, except for Sections 665.710, 665.711, 665.712, 665.713 and 665.714, which will take effect on January 1, 1975, provided, however, no conversion to stock by an existing savings and loan association shall be permitted until January 1, 1975.

Since the Florida stock association law is already in effect with the proviso for the moratorium on conversions of existing associations until January 1, 1975, are the Florida savings and loan associations who have already applied to the Federal Home Loan Bank Board to convert from mutual to stock, qualified to be considered by the Federal Home Loan Bank Board as part of the 30 enumerated test cases contained in this bill?

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

I simply say to the junior Senator from Florida that the attempt of the committee was to protect States such as Florida which had passed the enabling legislation to convert from mutual to stock, and had set January 1, 1975—I believe I am correct on that—as a date when the conversions could take place in Florida.

I have some concern that the proviso which is known in our conference and agreement among ourselves in the executive session as Senator Williams' proviso, which was put in to protect Florida, would be better for that State. If it is the combined wisdom of the junior and senior Senators from Florida that they would prefer their State to be in the 23 that would be allowed conversion as the Federal Home Loan Bank Board selects them, that is agreeable to me, and I would be willing to accept that proposal.

I just want to be sure that the record indicates there is a possibility that if Florida is included in the 23 States, if it does not act quickly, it would be frozen out of that number, since that number would be under the selection and the decision of the Federal Home Loan Bank Board.

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

Mr. McINTYRE. I yield.

Mr. TOWER. Mr. President, I concur with the Senator from New Hampshire. I think he is absolutely right. I am prepared to accommodate the Senator from Florida. I would point out that that is no guarantee they will get into the program.

Mr. McINTYRE. Mr. President, I agree with the distinguished Senator from Texas that it is safer under the Williams proviso. But, as I have indicated, if that is what the Florida bankers and the Florida savings and loans and thrift institutions are requesting, I am agreeable.

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

Mr. McINTYRE. Mr. President, I yield to the Senator from Florida.

Mr. GURNEY. Mr. President, I am glad the distinguished Senator from New Hampshire, the manager of the bill, made that distinction clear. The Florida people do understand that. They

do understand that under the bill they would be entitled to that, but actually they would prefer to take their chances among the more additional test cases.

One of the reasons why that is true is that I do say with pride that the Florida federal savings and loan institutions are many and are very strong and represent some of the finest in the country.

I think from what they tell my colleague from Florida (Mr. CHILES) and me, certainly they feel they stand a pretty good chance with the Federal Home Loan Board because some of their institutions represent what the Federal Home Loan Bank Board wants to try. They are perfectly willing to take the chances in the test group, and that is why they prefer this approach. As I indicated, the Florida Savings and Loans wish to take their chances within the pool and possibly get two or three or more test case conversions, as opposed to being limited to the one which they would be restricted to under the Williams provision.

In my State of Florida, where our population has been growing very rapidly, we need more housing. This housing can often be acquired through loans made by savings and loan associations. The savings and loan associations typically obtain their funds through taking in savings. Such savings come primarily from current earnings and from savings transferred by retirees.

However, the reserves of Federal savings and loan associations are based on deposits, and typically, with a mutual institution the only source of reserves are current and past earnings.

In Florida, savings and loan associations have been growing rapidly. For example, one S. & L. chartered in 1960 and had $229,559,640 in savings as of March 31, 1974. And yet, in spite of this rapid growth, earnings oftentimes have not been sufficient to build up substantial reserves.

Associations which have been chartered 20 years or longer need reserves—FIR—of 5 percent of savings. If the reserve situation gets close to the minimum, associations may quit taking in savings, since an increase in savings necessitates an increase in reserves. Such a step, which can be precipitated by a period of low earnings, obviously hurts housing if the dollars which would have been deposited in the S. & L. go to some other type of institution or investment.

Capital stock dollars to S. & L.'s substantially help this problem. First, capital stock dollars are not counted in the base for determining the reserve requirement. And second, dollars from the capital stock can serve as reserves.

Thus, $1 from capital stock can serve as a base for many more dollars of deposits. Parenthetically, I should mention that associations which have been chartered less than 20 years need reserves based upon an equation which multiplies the age of the S. & L. by one quarter of a percent per year.

Under these circumstances, it is not surprising that 8 of the 20 additional test basis applications are from Florida. Florida has the economic conditions which would foster conversions and the sale of stock. To limit conversions in Florida to a single S. & L. would violate the very purpose that this program is intended to address.

The 23 additional test basis cases came about possibly as a result of 20–20 hindsight. A representative of the Office of the General Counsel of the Bank Board read a list at the full Senate Banking Committee markup of 22 States which authorize stock associations. As page 3 of the Banking Committee report indicates, they are States in which State-chartered associations can convert. The list was incomplete because it did not contain Tennessee and Florida.

Florida, as you know, is in an unusual situation because stock associations were authorized on June 4, 1973, but the sections of the Savings Association Act authorizing conversions do not become effective until January 1, 1975. Thus, under section 665–717—

> No conversion to stock . . . shall be permitted until January 1, 1975.

When the Banking Committee staff members were advised that the language of section 105(d) of H.R. 11221 was ambiguous, and that the date of May 22, 1974, could be read either with enact or authorize, I understand that they indicated that it was their intent to have it qualify authorize. Thus, that would mean that if it were to modify authorize, Florida would be included with States such as New Jersey which have not enacted stock statutes. If it were to modify enact, which is what Florida wants, then it would be included within the group of the 23 test basis cases stipulated in the preceding lines 13 through 15.

As a practical matter there will not be one from each State that authorizes stock associations. Factors such as size of associations, conservative management, economic conditions, or State law will mitigate against applications. For example, in the States of Michigan and Washington, present State law may prevent the conversion of a State-chartered mutual to a State-chartered stock.

I believe that the Bank Board should have discretion to select more than one test case or more than 1 percent of insured institutions as test cases from a State. Florida had no applications in the seven pre-May 22, 1973, study applications. Since Florida had neither a stock law nor a conversion statute prior to May 22, 1973, that is not surprising.

However, since the Federal Home Loan Bank Board has begun accepting applications again, as of April 8, 1974, eight applications from Florida have been submitted. Of the 20 cases, others are from the following States: California, New Mexico, Ohio, Wisconsin, Illinois, Texas, Tennessee, Kansas, and Maryland.

Therefore, since the Florida Stock Association law is already in effect, with the proviso that does not permit conversions of existing mutual associations until January 1, 1975, and as the Florida Savings and Loan Associations who have already applied to the Federal Home Loan Bank Board to convert from mutual to stock associations are qualified to be considered by the Board as part of the test cases enumerated in this bill, I think it behooves us to now clear away any potential ambiguity. Therefore, I concur in the request to amend H.R. 11221 so that the phrase in section 105(d)(3) "subsequent to May 22, 1974," will follow the phrase in the preceding line "in a State which enacts."

Mr. McINTYRE. We have tried to make it a diverse type experiment and not take all of one method. We hope to learn by this experience with respect to monetary conversions. We hope to be able to learn and be better able to deal with this matter.

Mr. President, with that agreement, I am perfectly willing to accept the amendment. I think my good friend from Texas joins me in that statement.

Mr. TOWER. I am willing to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McINTYRE. I yield back the remainder of my time on the amendment.

Mr. CHILES. I yield back my time on the amendment.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1426

Mr. PROXMIRE. Mr. President, I call up my amendment No. 1426.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> At the end of the Act, insert the following new title:
>
> TITLE —LIMITATION ON OUTLAYS
>
> SEC. . Expenditures and net lending during the fiscal year ending June 30, 1975, under the budget of the United States Government shall not exceed $295,000,000,000.

The PRESIDING OFFICER. Is this the amendment on which the Senator has been allotted 1 hour?

Mr. PROXMIRE. That is my understanding: 1 hour on the amendment, one-half hour on a side.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require. I shall not take long.

Mr. President, the amendment would establish a $295 billion ceiling on Federal outlays for fiscal year 1975. This represents a cut of over $9 billion in the spending proposed in the President's budget.

The Senate voted on a similar amendment offered to the wage-price control legislation about a month ago and adopted it by a two-to-one margin. That bill, however, was tabled, so the ceiling died. I am hopeful that this bill will pass. The amendment is cosponsored by the Senator from Tennessee (Mr. BROCK), and I am delighted to have his cosponsorship. No one has been more concerned with wasteful spending and inflation than the Senator from Tennessee. I think his support is most helpful in this regard.

Instead of a whopping $30 billion, 11-percent increase in Federal spending as proposed by the President, my amendment would allow a more modest increase of $20 billion, or 7.5 percent above the spending level for fiscal year 1974.

Mr. President, there has been much discussion in recent months on how to stop our rampaging inflation. Well,

Congress can do something right now to fight inflation.

I notice on the desk of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) an article entitled "The Way to Halt Inflation," which deals with the blueprint of the Secretary of the Treasury. What does he suggest? He suggests one thing: Cut spending. He is correct. This is the one action Congress and the Federal Government can take that will have an effect on inflation. It is controversial as to whether controls will work. We have gone through that. But there is no question that we can cut the budget.

Congress can exercise its most fundamental power, the power of the purse. If we are really concerned about inflation, then how can we agree to the President's budget for fiscal year 1975, a budget which proposes the largest dollar increase in Federal spending in peacetime history, and one of the largest percentage increases?

During the last 5 years, the administration has talked a good game about fighting inflation. It has wrongly tried to pin the big spender label on Congress. Yet the fact remains, that year after year, it has been the President himself who has proposed huge increases in Federal spending. In the 5 years since the President took office, the Federal budget has grown from $196 billion to more than $304 billion, an increase of over 55 percent.

There is nothing inevitable about Federal spending. We do not have to throw up our hands and confess impotence. Congress can control spending if it really wants to. There is a vast amount of waste in the Federal budget. A cut of $9 billion would not begin to touch the savings which could be made if wasteful programs were cut back or eliminated. If we are truly interested in economy, the time to begin is now. Not next year, not next month, not tomorrow, but now.

I have estimated that the budget could be cut by more than $9 billion while still leaving funds left over to increase programs which are underfunded.

The Defense program could be cut by $7.1 billion by limiting outlays to last year's level. With the end of the Vietnam war and our improved relations with the rest of the world, there is no reason to have a bigger military budget. Let the Pentagon absorb the cost of inflation and pay increases by cutting out fat.

The foreign aid program can be cut by at least $3 billion. The total foreign aid budget is closer to $9 billion to $10 billion than the $4 billion shown in the budget.

About $6 billion of that $10 billion is military assistance. Much of this money goes for wasteful military assistance. Why should we continue to provide military aid to some 45 countries around the world, including the $1.9 billion to Thailand and South Vietnam after the war is said to be over?

Several more billions of wasteful spending can be cut out of the space, public works, and highway programs without undue difficulty.

Mr. President, I would not try to impose my notion as to where this spending should be cut. We all have differing views, and the President has differing views.

The amendment would provide that we must live within that $295 billion. It would serve notice on the Committee on Appropriations and the authorizing committees, which also have great authority, in connection with the ban on spending, and to do it now before action is fully taken. Not only would this be effective with Congress, but also it would have a profound effect on the inflationary psychology which affects our economy.

Mr. President, a dramatic and decisive action by Congress to cut the President's budget by $9 billion would have a profound effect on the inflationary psychology which has infested our economy. It would break the back of inflation. It would have fewer inflationary expectations. Inventory spending to avoid inflation would be cut back. Unwarranted plans to add more plant or equipment simply to beat rising prices would be revised.

Second, labor unions would be less inclined to make inflationary wage demands if they were confident that inflation was being brought under control.

Third, the Federal Reserve Board would be less inclined to pursue a tight money policy if it saw that Congress was shouldering part of the burden by cutting spending. A relaxation of monetary policy would help to bring down interest rates and revive the depressed homebuilding industry which is already suffering from an unemployment rate in excess of 8 percent.

A cut in Federal spending of $9 billion would have a two-pronged effect. First, the actual reduction of $9 billion in Federal spending is in itself deflationary. It decreases aggregate demand for goods and services by $9 billion. Second, a spending cut will curb inflationary expectations. It will convince the public that the Federal Government is playing its part in curbing inflation.

Mr. President, I say that the best way to convince the American people that we are concerned about inflation is to cut the President's budget. All we need is the will and the determination to cut the budget. Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER (Mr. ALLEN). Will the Senator from Wisconsin add the name of the junior Senator from Alabama (Mr. ALLEN) as a cosponsor?

Mr. PROXMIRE. I am proud and happy to add the name of my good friend from Alabama as a cosponsor.

Mr. President, I ask unanimous consent that the name of the Senator from Alabama be added as a cosponsor of the amendment.

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

Mr. PROXMIRE. Mr. President, I yield such time as he may desire to the Senator from Tennessee (Mr. BROCK).

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, I was privileged to cosponsor this amendment with the Senator from Alabama and the Senator from Wisconsin. First, I would like to express my gratitude for the gracious comments of the Senator from Wisconsin and to repay as best I can in kind.

I do not think any Member of this body is more concerned about inflation and its cost in hardship to the American people than the Senator from Wisconsin; and no one has attempted more to do something about it.

I have read so many articles and so many studies on the impact on human life of inflation. I wonder if any figure, book, or publication can really reflect the agony of the effect on families from something that is not of their making.

There is an interesting article in the U.S. News & World Report, June 17, 1974. The article reads in part:

> The United States is in the grip of inflation more severe than anything experienced in its peacetime history.
>
> That fact has taken a while to sink in. Inflation now is beginning to hurt badly. Starting to take hold also is the idea that rampaging prices and sky-high interest rates aren't going to be waved away by Washington without an all-encompassing national effort at restraint—or a steep recession.
>
> So, people suddenly are feeling less secure. They are talking about the need to be more economical, more cautious.
>
> None of this is happening for the first time in this country. But rarely before has inflation struck with such virulence. So far in 1974, the cost of living is shooting upward at a rate of 12 per cent a year.
>
> What this means in practical terms is that, in spite of pay raises, people are having to make do with less. Millions are dropping plans for buying new cars or taking trips to Europe. Houses more and more are being priced beyond the reach of the typical family. Steaks and rib roasts are appearing on the dinner table less often. Meat substitutes and "extenders" are a booming segment of the food business.

The article has a chart which is interesting, illustrating the shrinking dollar. Placing the 1969 dollar, which is just 5½ years ago, at a value of 100 cents, that dollar today is worth 75 cents, and at the current rate of inflation, by 1979 it will be worth 57 cents.

If the present inflation is not curbed, the average home now costing $37,500 will cost $51,700 in 1979. The price of food will go from $54.40 per family a week now to $80.50 in 1979. The local busfare will go from 38 cents now to 53 cents in 1979. The price of gasoline will go from 58 cents a gallon now to 88 cents in 1979.

Mr. President, I ask unanimous consent that this article be included in the RECORD, along with an article in the same magazine entitled "A Lesson From Europeans on Beating Cost of Living."

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

THE MESS THE UNITED STATES IS IN AND WHAT CAUSED IT

After an era of unprecedented prosperity, Americans are starting to realize that the nation's economic machinery is badly out of whack—and they feel it. Inflation, only an occasional irritant since World War II, now is devouring family savings, putting familiar pleasures out of reach, spreading insecurity. Ways to end it seem elusive.

The articles on these and following pages describe the problem, what it means to people as consumers, workers and investors, and what the cure may be.

The United States is in the grip of inflation more severe than anything experienced in its peacetime history.

That fact has taken a while to sink in. Inflation now is beginning to hurt badly. Starting to take hold also is the idea that rampaging prices and sky-high interest rates aren't going to be waved away by Washington

without an all-encompassing national effort at restraint—or a steep recession.

So, people suddenly are feeling less secure. They are talking about the need to be more economical, more cautious.

None of this is happening for the first time in this country. But rarely before has inflation struck with such virulence. So far in 1974, the cost of living is shooting upward at a rate of 12 per cent a year.

What this means in practical terms is that, in spite of pay raises, people are having to make do with less. Millions are dropping plans for buying new cars or taking trips to Europe. Houses more and more are being priced beyond the reach of the typical family. Steaks and rib roasts are appearing on the dinner table less often. Meat substitutes and "extenders" are a booming segment of the food business.

But penny-pinching brings no sense of security—just the opposite. Planning for the future has become all but impossible for most people. How much support will $100,000 of life insurance buy for a family bereft of its breadwinner 10 years from now? How much will be needed to put a child through college 10 years hence? Or to provide for a comfortable retirement? No one has the remotest idea.

All the while, inflation is eating away at the value of funds set aside—bank accounts, savings bonds, insurance policies, even stocks, once considered a good inflation hedge. The careful saver feels more and more like a "sucker."

On paper, the average home-owner has a big gain in the value of his house. But until he sells, that "windfall" merely adds to his assessments and property tax.

Economists spot little reason for encouragement. The best the Nixon Administration can suggest is that consumer prices may be rising at an annual rate of no more than 7 per cent by the end of 1974. Many experts outside the Government are predicting 1 or 2 percentage points more than that.

There is increasing talk in economic circles that inflation may clip an average of 5 or 6 cents off the dollar yearly for the foreseeable future.

Why? What has gone wrong with an economic system that in the past produced prosperity with fairly stable prices over long periods of time?

Three culprits named. Irving Friedman, a leading authority on the subject, now senior adviser on international operations at the First National City Bank of New York, cites three major causes for the ailment.

At the head of his list, Mr. Friedman puts Government promises to maintain "full employment," a pledge adopted in the U.S. when memories of the great depression were still fresh. What this means is that, whenever steps taken to fight inflation lead to fewer jobs, the signals are switched, even if it means giving inflation a new lease on life. Recessions since World War II have been brief and mild.

Next on the list, Mr. Friedman places the development of the "welfare state." All around the globe, governments now deem it their duty to try to give all their people a "decent" standard of living—a standard that keeps rising. In the U.S., this means an endless parade of new or expanding Government outlays—for food stamps, housing subsidies, medical aid, education, income support for the poor and elderly, city parks and rural golf courses. The list goes on and on.

Those factors add up to deficit spending in the billions of dollars and a generally liberal supply of money and credit.

Finally, Mr. Friedman points to the one thing that seems most threatened now by inflation—the American way of life, rapidly being emulated by people around the globe. Consumers expect each year to bring new comforts, conveniences or playthings, a frame of mind zealously encouraged by advertising, credit cards and mass communications.

Put all this together on a global scale, and the result is a demand for goods and services that tends to outrun supplies. Even in the midst of a slump, the U.S. has shortages of skilled labor, steel, copper, paper, boxcars, farm machinery, oil-drilling rigs and fresh lobsters, to name just a few.

Tough remedy. Most economists agree, in broad terms, on what is needed to bring inflation under control: Hold down demand for goods and services and, at the same time, take steps to increase supplies. But that remedy is hard to apply.

The Federal Reserve is keeping a tight rein on the money supply. But complaints are growing about the record borrowing costs that result and about the slump in business. Already, the Government has moved to pump more credit into the housing market.

The Federal Reserve's efforts are also complicated by those big Government deficits, 89 billion dollars in the five years ending this June 30. Since early 1970, the U.S. Treasury has had to borrow 49 billion dollars, and the Federal Reserve has put up 17 billion of that.

That financing, says Darryl R. Francis, president of the Federal Reserve Bank of St. Louis, has "fostered" an increase of 23 billion dollars, or nearly 8 per cent a year, in the reserves that commercial banks use to expand their loans and deposits. In the same period, the money supply has increased at an annual rate of nearly 7 per cent.

The Federal Reserve bought those 17 billions of Treasury bills and bonds, Mr. Francis points out, to keep interest rates from going too high.

Even so, they are now at the highest level in 100 years. And inflation goes zipping along.

Now, the Nixon Administration is talking about eliminating the budget deficit, but officials say this won't be possible until the year beginning July 1, 1975, at the earliest. Meanwhile, the President is asking Congress to provide more unemployment benefits for people laid off as a result of the slump.

To increase supplies, the Government plans to feed the markets with more materials from the federal stockpiles—if Congress agrees. The chief idea along these lines comes from Treasury Secretary William E. Simon: Give business some new tax benefits in return for investing in the mines, wells and plants that will turn out more of the scarce materials.

Lawmakers, however, balk at cutting taxes on business without doing something also to relieve the mass of taxpayers, and the Administration argues that a tax cut for individuals would simply add to the inflation.

Congress right now is under popular pressure to boost business taxes and to cut those of individuals. The reason is fairly simple: Many people find their taxes going up faster than incomes. That, in part, is another result of rampant inflation. As workers get pay raises, they find themselves climbing into higher-rate tax brackets.

A family of four that has had an increase in income from $20,000 in 1967 to $28,800 in 1974 has, in theory, kept up with inflation. Income before taxes and cost of living are both 44 per cent higher. But the family's Social Security and federal income taxes combined are up 76 per cent. Result: less buying power.

OUT OF CONTROL

All the while, inflation continues to feed on itself.

Businessmen expect prices to go still higher. They want to buy materials and equipment before that happens. They place orders far in advance, build up inventories whenever possible. No one really knows how much is stashed away, contributing to those price-boosting shortages.

The same inflationary expectations make consumers as well as businessmen believe it is better to borrow and buy than to save and wait. Individuals and corporations took on more new debt last year than ever before—220 billion dollars' worth. And that demand for credit, in turn, helped to push interest rates to their present peaks.

The high interest rates add to the cost of doing business and, at the same time, make it more difficult for industry to finance the facilities needed to expand output.

Workers, whose pay raises generally lagged behind the rise in the cost of living last year, want bigger increases this year and the protection of escalator clauses in their union contracts. Bigger pay raises, in turn, are expected to add a new "cost-push" dimension to inflation.

The experts say that, somehow, "inflationary expectations" have to be uprooted. If economists are right, that won't be done without changing a number of ideas and attitudes that have been popular for a generation or more.

A LESSON FROM EUROPEANS ON BEATING COST OF LIVING

Across the heartland of industrial Europe—from Britain to the Mediterranean and from Italy to Sweden—people are offering this lesson to Americans:

A typical family has little chance of outmaneuvering inflation—but it is possible to survive.

Britons are eating less beef, giving up foreign vacations and donating less to charities. But still their savings shrivel, and their prices roar upward.

Some Parisians are forsaking a decades-old custom and entertaining business acquaintances at home instead of in a cafe.

Newlyweds in Rome, faced with rents that take half their income, are trying to balance things out by buying less meat, more chicken and eggs.

In Bonn, capital of West Germany, where inflation is "only" 7.1 per cent a year at latest count, grocer Adolf Scheben says:

"I have to charge 30 per cent more for a pound of margarine than I did four months ago. The best I can do is to try to break even and hope that I survive until things take a turn for the better."

Until recently, inflation elsewhere has generally exceeded that in the U.S. As late as 1973, the cost of living in the U.S. rose less than in any major industrial nation in Western Europe.

But now Americans are faced with the problems of living that people on the other side of the Atlantic have been wrestling with for years.

Staff members of "U.S. News & World Report" in Europe cabled these reports of how families, businesses and governments have tried to cope with inflation:

LONDON

Britons' attempts to maintain their traditional ways of life in the face of inflation are being tightly squeezed, and prospects for the future are gloomy.

Average earnings were up 14 per cent in the year ending last March, half a per cent more than prices. But economists now see an annual rate of inflation of 20 per cent for the next two years—and a drop in the standard of living of 5 per cent.

In a country where wages are well below those in the U.S.—a typical auto worker may make about $515 a month and many professionals are paid less than $10,000 a year—workers are hit hard by price rises. Those on fixed incomes are hurt even worse.

"Our first priority is food, everything we buy is the cheapest," says the wife of a retired Army officer. "We've cut baths to two a week instead of one a day to save the cost of heating water. Soap ends are crushed together and used again. We have hot water for two hours a day only."

The effects of inflation are showing up in many areas.

The inflation parade in Europe

[In percent]

United Kingdom	51
Italy	45
Sweden	43
Netherlands	40
France	40
Switzerland	38
Austria	35
Belgium	33
West Germany	31

SOURCE.—Organization for Economic Cooperation and Development.

Abandoned dogs

The Canine Defense League says the number of abandoned dogs, especially large dogs, is growing as pet-food prices rise.

Sales of beef and lamb are down and rabbit is up. Pub managers find lunchtime crowds eating less—and drinking more. London's 14,000 restaurants, where a moderate-priced dinner for two can cost $25, are anticipating what experts call "the biggest shakeout in decades" as more families stay home.

Stock-market investments have dwindled. Color-TV sales are plummeting and people are having appliances repaired rather than replacing them.

Housing is a special problem. Average prices have doubled since 1970 and some middle-class houses are going for $100,000 and more. More families are buying rundown homes in unfashionable areas to repair as "do-it-yourself" projects.

Britons who have been able to vacation abroad and send their children to private schools are facing a change in habits. Holidays now are likely to be at a nearby beach and rising costs may soon make a private education the exclusive preserve of the very rich.

"I suppose I'm numbered by living from month to month," says a headmaster of one school. "Every penny I earn is committed. All our furniture is secondhand and we've stopped replacing it. Even the television set, which broke down recently, has not been repaired."

Government programs to curb inflation, including subsidies on such staple foods as bread and butter, have had little effect.

PARIS

French consumers staged a buying spree early this year, stocking up on furniture and clothing in an effort to out-distance inflation. But spending now has turned down and economists expect it to stay there for a while.

Since the first of the year, inflation has been running at an annual rate of 17 per cent. Wages have not kept pace.

With a skilled French workman making about $500 a month, food costs may take half his income. Yet few French families are cutting back except as a last resort. They also keep using their cars, even though gas now costs about $1.25 a gallon. Most still plan to take their prized summer vacations, although cheaper camping trips are becoming popular. So are other economies:

A new apartment is postponed; a couple no longer runs out casually to a bistro for a drink, much less to a restaurant or a movie. Says one wife:

"Meat is still vital. But I'm making all our clothes and shopping around for the cheapest food lines. We're not getting new curtains and we don't go out any more except to visit our family or the neighbors."

Rising costs have forced a number of shops and small factories into bankruptcy. Other businessmen, finding it harder and harder to get credit, are uneasy about Government policies which have been aimed at growth and full employment rather than curbing inflation.

BONN

West Germany's current anti-inflation performance is one of the best in the world. Statistics even show that the German wage earner is slightly better off than a year ago. Average real income is up 2 per cent because pay increases of 13 per cent have run ahead of price rises.

For example, Matthias Kurz, an auto worker in Cologne who earns about $800 a month, calculates his real income is up about 4 per cent. His wife also works part time as a nurse. The Kurzes pay $160 a month in rent and visit Italy or Yugoslavia every year.

"I go to great lengths to find out where I can buy what I need at the cheapest prices," he says. "If I would have to reduce my spending greatly, I'd cut down first on my smoking and, secondly, skip the holiday abroad."

Vacations at home

Other German families are economizing, especially on vacations. One survey shows that half of the families with three or more children—and a third of those with two—will stay home this summer.

Sales of new homes have slowed, and bankruptcies among builders have become frequent.

Less-than-luxurious apartments priced at $100,000-plus here and in other cities are moving slowly.

In a country where pensioners may get only $250 a month and a dozen eggs cost $1.40, a pound of butter $1.60, and a pound of coffee $4, Mr. Scheben, the grocer, notes customers are more and more careful about what they buy.

Government policies are given credit for softening the impact of inflation. A stabilization program last year included an 11 per cent tax on investments and cancellation of depreciation allowances on construction. Although much of this package has now been repealed, the central bank has kept its tight-money policy.

Other strengths of the Germans, some experts point out, are a vivid memory of disastrous inflations in the past and the reputation workers here have of working harder than those in other countries.

GENEVA

As most salaries and wages increase automatically with the cost of living, Switzerland has been pinched less by inflation than other countries.

Still, with consumer prices up 10 per cent from last year, many Swiss are uneasy about the continuing spiral. As a construction worker here says:

"Nobody wants his pay to fall behind, but this race of wages and prices makes no sense. In the end it's the little man who's going to suffer."

Although the automatic pay increases generally have exceeded the rise in the cost of living, some Swiss find their purchasing power eroding. For one thing, they say, the official statistics tend to underestimate the real cost of living. Also, the graduated income tax takes bigger and bigger bites from the increased wages.

ROME

On the surface, Italians seem to be spending money with the same light-hearted attitude as a year ago. Shops and movies are crowded. So are the highways, even though gasoline's price has gone up 45 per cent.

Behind this facade, however, there are serious problems. Inflation has hit hard at workers who make about $350 a month in heavy industry.

Housing costs have risen 40 per cent in the last year.

Apartments in Rome now may cost up to $70,000 for four rooms. Rents for two-room flats, from $100 to $170 a month, eat up half the take-home pay of some younger workers.

Two or three jobs

To keep up the spending, many Italians are dipping into their savings or taking extra jobs. A survey showed 1 out of every 4 workers has two jobs and 1 in 6 has three.

Consumers are more selective. Sales of perfumes and cosmetics are down. Housewives, faced with a jump in olive-oil prices of from $1.90 a liter last year to more than $3 now, are learning to cook with margarine.

Italians still crowd the roads in large numbers on week-ends, but many seem to be choosing beaches closer to home and taking picnic lunches instead of eating in restaurants. Gasoline consumption is down by 20 per cent since the first of the year.

Businesses so far have fared better than the workers, but many businessmen are wary of the future—with more trouble getting credit and interest rates bound to be higher than the 15 per cent prime rate now in effect.

Mr. BROCK. Mr. President, I have been in the Congress for 11½ years now. In those 11½ years we have never had a surplus, except for 1 year, 1969. Every other year there has been a deficit, ranging from $4.8 billion in 1963, the first year in which I served in the House, to a high of $25.2 billion in 1968.

The projected deficit this year ranges in estimates from $11 billion to $15 billion, and some say it may be as high as $20 billion.

The Federal debt has gone up from $310 billion to $485 billion, and we are presently considering an increase in the debt ceiling.

It just seems to me that if we are going to do something about inflation, we had better start with our own house here in the Congress. We have increased Federal spending by almost 200 percent in these 11½ years, from $111 billion to a proposed $305 billion budget offered by the President of the United States.

We simply cannot ask the American people to tighten their belt, to go without meat, to reduce their grocery purchases, to reduce their health purchases, housing, and clothing, and not accept a commensurate responsibility on the part of the Congress of the United States.

That is what the Senator from Wisconsin is asking that we do—to tighten our belt, to accept the fact that the U.S. Government is the major factor in aiding and abetting inflation, that deficit spending creates inflation in prices and that deficits force the Government into the money market to borrow which in turn forces up interest rates.

As a result we now have an 11-percent prime interest rate. How does one buy a house with an 11-percent interest rate? He just does not buy a house. That is what is happening.

We have got to get a handle on inflation. We have no choice. It is not enough for Congress to criticize banks for charging their interest rates or people for excessive spending. The leadership is here. That leadership has got to be exercised.

The Senator from Wisconsin is of the opposite party. The President is of my party. The party has nothing to do with this problem. The problem is that the Federal Government must exercise a great deal more restraint than it has. This amendment would at least start the process of placing some limitation on our excesses. We have no alternative.

We can debate the priorities. We can pass a budget bill, and we have done it, and the budget reform bill is a good bill; but until we accept the personal, individual responsibility and the collective responsibility of the Congress of the United States to halt the impact of taxes and prices on the American people, we simply are not living up to our constitutional responsibilities.

I urge the adoption of this amendment.

Mr. TOWER. Mr. President, will the Senator yield me 2 minutes?

Mr. PROXMIRE. I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I support the amendment offered by the Senator from Wisconsin and the Senator from Tennessee. I have been saying throughout my public life that it is essential, if we are to get inflation under control, that Congress discipline itself to the extent that it causes Government to live within its means. I think this is a constructive amendment.

It is my understanding that it gives discretion to the administration as to where the cuts in spending should be made. Is that correct?

Mr. PROXMIRE. That is correct, but as I said, if we act now, Congress will have an opportunity in the appropriation bills and actions by the authorizing committees to make our own determinations. If we do not do that, then it would have to be up to the President.

Mr. TOWER. So we could go either way?

Mr. PROXMIRE. That is right.

Mr. TOWER. We can live within the spirit of it ourselves through the appropriation process.

Mr. PROXMIRE. That is right. The point is, there will be a ceiling. We would be assured of that. As far as the public is concerned, they do not care who does it, so long as it is done.

Mr. TOWER. I thank the Senator. I shall certainly support the amendment. I will raise this caution with the Senator from Wisconsin and the Senator from Tennessee. The rule of germaneness may be raised and pressed in conference, and I am not terribly sanguine about having this amendment survive in conference. I hope it will. If I am one of the conferees, I certainly shall support it in conference.

Mr. McINTYRE. Mr. President, I yield myself 2 minutes and say to my distinguished friends from Wisconsin and Tennessee that this spending ceiling passed the Senate as an amendment on May 9, as I recall, by a vote of 56 to 31. I am very much in favor of the amendment. I shall be happy to accept it and take it to conference.

I would appreciate very much if we might have a decision now as to whether the Senator is going to request a rollcall on this amendment.

Mr. PROXMIRE. Mr. President, may I say to my friend from New Hampshire I very much appreciate his support. I do think under the circumstances, even though we did have a rollcall on a similar amendment before, we should have a rollcall on this one. As the Senator from Texas has pointed out, it will have a tough time in conference as it is, so it is very important to get every Senator on record on this amendment, because this will be the best opportunity to establish a ceiling. For those reasons, I think it would be best to have a record vote. It will make a difference.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed be charged to neither side.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, I ask for the yeas and nays on the amendment of the Senator from Wisconsin.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed be charged to neither side.

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.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 30 seconds?

Mr. TOWER. Mr. President, I yield 1 minute.

CONTROL OF TIME ON S. 2784

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that instead of Mr. THURMOND having control on the one side with respect to S. 2784, which is the Vietnam veterans' bill that was reported by the Committee on Veterans' Affairs, Mr. HANSEN's name be substituted in lieu thereof.

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

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

The PRESIDING OFFICER. Who yields time?

MESSAGES FROM THE PRESIDENT

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

PRESERVATION OF WILDERNESS AREAS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate a message from the President of the United States, which, with the accompanying papers, was referred to the Committee on Interior and Insular Affairs. The message is as follows:

To the Congress of the United States:

There is no greater challenge facing America today than the discovery and development of new energy resources.

As we move toward national self-sufficiency in energy, however, we must be diligent in protecting and preserving our natural heritage of unspoiled wilderness areas and the ecosystems which they support.

With this goal in mind, and pursuant to the Wilderness Act of 1964, I am today proposing 15 new additions to our National Wilderness Preservation System. These additions comprise more than 6 million acres and would nearly double existing wilderness acreage.

I would also like to take this opportunity to urge once again that Congress enact the eastern wilderness legislation I recently submitted, now embodied in legislation labeled S. 2487 and H.R. 10469. On May 31, the Senate passed a bill which would designate certain wilderness areas in the Eastern United States. The Senate bill, I believe, is inadequate. I urge the House to give early and favorable consideration to wilderness legislation incorporating the Administration proposal, and I urge the Congress to adopt it as the most balanced approach to studying and designating wilderness areas in the Eastern United States.

Briefly described, the additions I am proposing today are:

(1) Crater Lake National Park, Oregon—122,400 acres. Crater Lake is the deepest lake in the country and, in its ancient caldera setting, one of the most beautiful. The lake is surrounded by rugged and varied terrain, most of which is recommended for wilderness designation.

(2) Havasu National Wildlife Refuge, California—2,510 acres of Sonoran desert land. Located in one of the hottest and driest areas of the country—rainfall averages only 4.73 inches per year—this refuge is the home of such rare or endangered species as the Yuma clapper rail, the Gila monster, and the peregrine falcon.

(3) Semidi National Wildlife Refuge, Alaska—256,000 acres comprising nine islands and surrounding submerged lands in the western Gulf of Alaska. The refuge's fragile estuarine system is a breeding ground for vast colonies of sea birds and other forms of wildlife.

(4) Hawaiian Islands National Wildlife Refuge, Hawaii—1,742 acres on various islets and reefs distributed among some 800 miles of ocean between the main Hawaiian Islands and Midway Island. Among the rare forms of wildlife found within this refuge are the Laysan teal, found only on Laysan Island; the Hawaiian monk seal; and the green sea turtle.

(5) Crab Orchard National Wildlife Refuge, Illinois—4,050 acres. This refuge is a haven for such migratory waterfowl as Canada geese, snow and blue geese, and mallard ducks.

(6) Zion National Park, Utah—120,620 acres. This park is a superlative example of the effect of erosion on an uplifted plateau. The great bulk of its towering peaks and pinnacles, arches, and natural

bridges are recommended for wilderness designation.

(7) Katmai National Monument, Alaska—2,603,547 acres. Situated near the base of the Alaskan Peninsula, this massive area comprises three entirely different ecosystems: a coastal area dotted with fjord-like bays; a mountainous area atop ancient volcanic basement rocks; and a plain crisscrossed by lakes of glacial origin.

(8) Rice Lake and Mille Lacs National Wildlife Refuges, Minnesota—1,407 acres. Consisting largely of bog, forest, and lakes, Rice Lake National Wildlife Refuge supports a variety of birds, notably the ring-necked duck. Both of the islands which constitute the small, nearby Mille Lacs National Wildlife Refuge are also included in this recommendation.

(9) Glacier National Park, Montana—927,550 acres. Located in the Rocky Mountains of Montana, this park—nearly all of which is suitable for wilderness designation—contains some 50 small glaciers and 200 lakes.

(10) Red Rock Lakes National Wildlife Refuge, Montana—32,350 acres. Although it harbors a multitude of ducks, as well as such mammals as moose, elk, deer, and antelope, the primary purpose of this refuge is to protect the once-rare trumpeter swan, largest of all American waterfowl.

(11) Olympic National Park, Washington—862,139 acres. The home of more than 50 wildlife species, this landscape of rain forests and seashore lies in the wettest winter climate in the lower 49 States.

(12) Tamarac National Wildlife Refuge, Minnesota—2,138 acres. One of the most important sanctuaries along the Mississippi Flyway, this area hosts thousands of pairs of ducks during the annual nesting season.

(13) Rocky Mountain National Park, Colorado—239,835 acres characterized by massive peaks, Alpine lakes, and mountain forests. Among the wildlife found here are wapiti, mule deer, and bighorn sheep.

(14) Missisquoi National Wildlife Refuge, Vermont—620 acres. Located less than a mile from the Canadian border, this refuge supports primarily waterfowl but also a population of 100 whitetail deer, a species which was all but nonexistent in this area 30 years ago.

(15) Unimak Islands (Aleutian Islands National Wildlife Refuge), Alaska—973,000 acres. A rich diversity of wildlife, including the Alaskan brown bear and the once-rare sea otter, inhabit this island. Its scenic coastline, rugged mountains, and volcanic remnants make the island ideal for the study of interrelated marine and terrestrial ecosystems.

In addition, two proposals which have been previously submitted—Pinnacles National Monument and Sequoia-Kings Canyon National Parks, all in California—have been augmented by sufficient acreage to warrant resubmission to the Congress. The enlargements, which are attributable to revised management philosophy and plans and the recent acquisition of private inholdings, amount to 5,970 acres in the case of Pinnacles and 68,800 acres in the case of Sequoia-Kings Canyon.

Three other areas—previously proposed—Cabeza Prieta Game Range, Arizona; Desert National Wildlife Range, Nevada; and Glacier Bay National Monument, Alaska—contain surface lands suitable for wilderness designation. However, because two of these areas are open to mining, and all three may contain minerals vital to the national interest and have not been subjected to adequate mineral surveys, I am recommending that action on these proposals be deferred pending the completion of such surveys.

After a review of roadless areas of 5,000 acres or more and roadless islands, the Secretary of the Interior has concluded that seven areas are not suitable for preservation as part of the National Wilderness Preservation System. These are: Savannah National Wildlife Refuge, Georgia; Little Pend Oreille National Wildlife Refuge and Turnbull National Wildlife Refuge, Washington; Bowdoin National Wildlife Refuge and the National Bison Range, Montana; National Elk Refuge, Wyoming; and Horicon National Wildlife Refuge, Wisconsin.

In addition to this message, I am transmitting herewith to the Congress letters and reports from the Secretary of the Interior regarding these wilderness proposals. I concur with the recommendation of the Secretary in each case, and I urge the Congress to give early and favorable consideration to all of these proposals.

RICHARD NIXON.

THE WHITE HOUSE, *June 13, 1974.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CHILES) 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. Hackney, one of its reading clerks, announced that the House had passed the joint resolution (S.J. Res. 202) designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations, with an amendment, in which it requested the concurrence of the Senate.

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (H.R. 11221) to provide for deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000.

Mr. BROCK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The pending question is on agreeing to the Proxmire-Brock amendment.

Mr. BROCK. Mr. President, the unanimous-consent agreement was to postpone votes until 12 o'clock. I ask unanimous consent that this amendment be temporarily laid aside until the hour of 12 o'clock for the vote, and that we be allowed to offer further amendments at this time.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. PROXMIRE. Mr. President, it is my amendment. It is highly embarrassing. I yield back my time on the amendment.

Mr. TOWER. I yield back my time.

The PRESIDING OFFICER. All time on the amendment is yielded back. The bill is open to further amendment.

Mr. BROCK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On pages 20, strike out lines 6 through 16 and insert in lieu thereof the following:

(2) Strike out the second paragraph and insert in lieu thereof the following:

"In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed $2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

"Notwithstanding the foregoing, the authority provided in this subsection may be exercised during any calendar quarter beginning after the date of enactment of the Depository Institutions Amendments of 1974 only if the Secretary of the Treasury and the Chairman of the Federal Home Loan Bank Board certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to supply such funds is substantially impaired because of monetary stringency and rapidly rising interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.".

Mr. BROCK. Mr. President, I am submitting this amendment to the bill as reported by the Banking Committee. Under section 113 of that bill, we would increase the Treasury's authority to lend directly to the home loan banks by an additional $3 billion. Presently, the Treasury's authority is limited to $4 billion in standby authority.

The purpose of this provision of the bill is to replenish the funds which the President announced on May 10 of this year would be used in a new mortgage commitment program designed to help housing. Under that program the Federal Home Loan Bank System is authorized to buy up to $3 billion in new conventional mortgages from savings institutions during the remainder of this year.

The financing for this program would come directly from the Treasury, under statutory standby loan authority. The additional $3 billion authorized by this section of the bill would be used to replenish the $3 billion used under this new program, thereby retaining $4 billion in unused standby funds at the Treasury.

The authors of this provision intended, of course, that this new authority would be temporary, expiring on August 10, 1975. But the trouble with this provision, as is so often true in other cases, is that it could become permanent lending authority. For that reason, I am offering an amendment to this section of the bill which would require the Secretary of the Treasury and the Chairman of the Home Loan Bank Board to certify each quarter that the conditions which warranted the extension of funds to the Home Loan Bank System are still in existence. If they are not, then any funds made available under this lending authority would have to be paid back and could not be extended again until such conditions reappear. In addition, the amendment would raise the Treasury's lending authority by $2 billion, rather than by $3 billion.

The reason for this amendment is to assure the funds which the Treasury supplies to the home loan banks are truly used for an emergency situation, or under conditions which truly warrant such action. The replenishment of these funds, as provided in this section of H.R. 11221, creates an illusion that housing can be helped over the long run through direct Treasury financing. The truth of the matter is that the Treasury itself must turn around and borrow these funds, thereby increasing the demand for funds in the open market and pushing up interest rates. This, in turn, only accentuates the problems which thrift institutions face when interest rates increase.

The other problem with this provision of the bill is that it creates a direct pipeline from the Treasury to housing. Other sectors of our economy are equally affected by high interest rates, and their cause is as just as that of housing. What we are initiating is not only a step in the direction of nationalizing our housing markets, but opening the door to the possibility that other demands as equally important can be met through direct Treasury financing.

The amendment which I am offering would help to assure that the funds to be used in the President's new program will be used only as conditions warrant, and that the extension of funds to housing at this time will be truly temporary, as intended in this section of the bill.

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

I have great sympathy for this amendment, because I think we should do our best to restrain Federal lending as well as Federal spending at this time, because whatever action we take to provide more funds from the Federal Government to the private sector is inflationary.

At the same time, there is no question that the area that has been hardest hit by high interest rates is home building, and I just disagree with my good friend from Tennessee when he says that other sectors are equally affected by high interest rates.

They just are not. Cooperate borrowing is affected, but not nearly so drastically as housing. Housing has already suffered a catastrophic reduction of almost 30 percent, because of high interest rates.

The corporate sector is booming; they have the biggest increase in plant and equipment in history, the biggest increase ever. It is an enormous increase.

Therefore, for this reason, I am reluctant see any cutback in the $3 billion we provided for the Home Loan Bank Board, which is a way, as the Senator properly said, of getting money into the housing sector. The Home Loan Bank Board provides the funding, of course, for savings and loan institutions, which are the principal source of the funds for mortgages in this country.

Housing is in such dire straits that the estimates now are that we will have housing starts of about 1.6 million this year, which is 1 million starts below our goal, and far below what we had last year.

Unemployment in the construction trades is close to 9 percent. So when we employ more people and have more resources, it is less inflationary than it is in most other areas.

Under these circumstances, I am reluctant to support an amendment vitiating the sectors taken by the committee providing $3 billion for the Home Loan Bank Board to make available for housing when they so desperately need it.

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

Mr. PROXMIRE. Yes.

Mr. BROCK. I am very much in sympathy with what the Senator says. I am so concerned with the direct access to the Treasury that I originally thought of simply requiring the certification and allowing no increase, because the President has already announced a $10 billion increase in the support program for the housing market.

In terms of our Federal housing programs, coupled with the private programs amounting to approximately $45 billion, that would in itself be, and is, more than a 20-percent increase.

Granting that the basic $4 billion was an emergency reserve, as originally intended, I frankly felt that I had to compromise with myself. So I did initially suggest a $1 billion increase. After conversation with the Senator from Wisconsin we made it $2 billion. That is $12 billion.

That is well in excess of a 25-percent increase in fund availability for housing. That is an incredibly large amount of money. I do hope that the Senator can accept the modified version with the $2 billion limit. I fully understand his concern, and I share it; I think he is correct in saying that housing has been affected more than any other segment of the economy. But it is true that even actions to support housing can sometimes be counterproductive, because if we go too much to the marketplace to obtain funds to provide for Federal assistance to borrowing for any purpose, we simply further dislocate the market and force interest rates so high that people cannot afford to borrow, no matter where they get the money from, whether Federal borrowing, savings and loan associations, or anywhere else.

That is why I believe a more moderate approach is warranted, and I again urge the acceptance of the amendment.

Mr. PROXMIRE. May I say to the Senator from Tennessee that the action that he and I just took in offering an amendment to reduce Federal spending by $10 billion is one way, and I think pershaps the best way, to ease the pressure on interest rates, by reducing the amount of Federal borrowing by $10 billion.

Mr. BROCK. I completely agree.

Mr. PROXMIRE. What we are trying to do is combine that here with the channeling of a relatively modest part of it into the housing sector.

There is just no free lunch. We cannot have borrowing of $3 billion for any purpose without having the effect on the rest of the economy. I would agree with that.

But I think, as the Senator agrees, one area that is supersensitive, terribly sensitive, to high interest rates is housing, because a person pays for a house over 25 or 30 years.

The high interest rates enormously increase the cost and the monthly payments, and automatically take literally millions of people out of the housing market.

Under the circumstances, I will be happy—and I have talked with the chairman of the committee—on behalf of the subcommittee and the committee, to accept the amendment of the Senator from Tennessee.

I might point out that in addition to the $2 billion limit, he also has some additional restrictions limiting the conditions under which even that $2 billion could be borrowed, providing that alternative means cannot be effectively employed to permit members of the Home Loan Bank system to continue to supply reasonable amounts of funds to the mortgage market, and furthermore that this $2 billion can only be used if the ability to supply such funds is substantially impaired, because of monetary stringency and rapidly rising interest rates.

So the Senator has restrictions already built in, in addition to the fact he is reducing the amount to $2 billion. So I support the amendment of the Senator from Tennessee.

Mr. BROCK. I thank the Senator very much. I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CHILES). All remaining time has been yielded back. The question is on agreeing to the amendment of the Senator from Tennessee (Mr. BROCK).

The amendment was agreed to.

Mr. CRANSTON. Mr. President, President Nixon's proposed budget for fiscal year 1975 is a breathtaking, recordbreaking, taxpayer-busting $304.4 billion. It contains a $9 billion deficit which can only worsen the inflation that is wracking our country.

The deficit actually is worse than it appears.

The Federal funds deficit in the President's budget is a whopping $17.9 billion. Part of this is covered in the reporting of the unified by budget by an anticipated $8.4 billion surplus in the Social Security Trust Fund and other trust funds. The trust funds surplus—this means people paid more trust fund taxes than they had to—will bring the unified budget deficit down to about $9.4 billion.

But $17.9 billion or $9.4 billion are too much.

We must get this budget into balance. If the President cannot or will not balance his budget—and OMB Director Roy Ash says he cannot and will not do it—then Congress must balance it for him. And we must make a balanced budget stick.

We must get this budget into balance to keep faith with the people who are being hurt badly by inflation.

There is a time and season for everything, but this is not the season for a Federal deficit in excess of $9 billion.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, with the time to be charged equally to both sides.

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

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

The question is on agreeing to the amendment of the Senator from Wisconsin, Number 1426.

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 Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Maine (Mr. HATHAWAY) and the Senator from Wyoming (Mr. McGEE) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) and the Senator from Montana (Mr. METCALF) are absent because of illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Oklahoma (Mr. BELLMON) are necessarily absent.

The result was announced—yeas 74, nays 12, as follows:

[No. 254 Leg.]

YEAS—74

Abourezk	Fulbright	Packwood
Allen	Goldwater	Pastore
Bayh	Gravel	Pearson
Beall	Gurney	Pell
Bible	Hansen	Percy
Brock	Hartke	Proxmire
Brooke	Haskell	Ribicoff
Buckley	Hatfield	Roth
Burdick	Helms	Schweiker
Byrd, Harry F., Jr.	Hollings	Scott, Hugh
Byrd, Robert C.	Huddleston	Scott, William L.
Cannon	Hughes	Sparkman
Case	Humphrey	Stafford
Chiles	Inouye	Stennis
Cook	Johnston	Stevens
Cranston	Mansfield	Stevenson
Curtis	Mathias	Taft
Dole	McClellan	Thurmond
Domenici	McClure	Tower
Dominick	McGovern	Tunney
Eagleton	McIntyre	Weicker
Eastland	Mondale	Williams
Ervin	Montoya	Young
Fannin	Moss	
Fong	Nelson	
	Nunn	

NAYS—12

Aiken	Griffin	Javits
Bennett	Hart	Kennedy
Biden	Hruska	Magnuson
Cotton	Jackson	Muskie

NOT VOTING—14

Baker	Clark	Metzenbaum
Bartlett	Hathaway	Randolph
Bellmon	Long	Symington
Bentsen	McGee	Talmadge
Church	Metcalf	

So Mr. PROXMIRE's amendment (No. 1426) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. NELSON). The bill is open to further amendment.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the passage of H.R. 11221.

The yeas and nays were ordered.

Mr. BENNETT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 22, after the sentence ending on line 10, add the following new subsection:

(c) (1) The Advisory Commission on Intergovernmental Relations (hereinafter referred to as the "Commission") shall conduct a study of all pertinent matters relating to the appropriate relationship between the authority of Federal supervisory agencies and the authority of States with respect to the protection of borrowers from federally chartered financial institutions in connection with terms and conditions applicable to mortgage loan contracts and consumer credit transactions, including, but not limited to, interest rate adjustment clauses, prepayment penalty charges, acceleration clauses, late payment charges, default notices, attorney fees, or maximum interest charges. In conducting such study, the Commission shall consult with the heads of Federal supervisory agencies and with appropriate State officials.

(2) The Commission shall make a report to the Congress of the results of its study, together with such recommendations for legislation or administrative action as it deems appropriate not later than June 30, 1975.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

The PRESIDING OFFICER. The Senate is not in order. Senators will please take their seats or retire to the cloakroom for their conversations. The Senator from Florida will please take his seat. [Laughter.]

The Senator from Utah may proceed. The Senate will be called to order if confusion again arises in the Senate Chamber.

Mr. BENNETT. Mr. President, I am submitting an amendment to section 114 of H.R. 11221 as reported by the Committee on Banking, Housing and Urban Affairs. That section of the bill would prohibit any Federal bank regulatory agency from adopting or enforcing a rule or regulation that is in contravention of a State law or regulation designed to protect borrowers of federally chartered institutions.

Mr. President, I intended to submit an amendment that would have struck the provision in section 114. But, I intend to replace it with a proposal that the matter, which has not had any hearings, be referred for a year to the Advisory Commission on Intergovernmental Relations. After discussing this with the author of section 114 of the bill, we have agreed, and I have modified my original amendment, to allow the provision to remain in the bill with the understanding that simultaneously the Advisory Commission on Intergovernmental Relations will for 1 year study the problem and report back to Congress.

I understand this is acceptable to the Senator from Wisconsin (Mr. PROXMIRE), who is the author of the original proposal. If it is acceptable to the manager of the bill, I hope that it will be accepted, and that we can go to third reading.

Mr. PROXMIRE. Mr. President, I wish to say to my good friend from Utah that it is, indeed, acceptable. I appreciate the modification very much. It is a useful proposal that should be studied by the Advisory Commission on Intergovernmental Relations.

Would it be possible to include in the study the National Association of Supervisors of State Banks and the National Association of Supervisors of Savings and Loan Associations?

Mr. BENNETT. I have no objection.

Mr. President, I ask that the amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BENNETT. Mr. President, the modification would include as consultants, in the study called for by the amendment, the National Association of Supervisors of State Banks and the National Association of Supervisors of Savings and Loan Associations.

The amendment, as modified, is as follows:

On page 22, after the sentence ending on line 10, add the following new subsection:

(c) (1) The Advisory Commission on Intergovernmental Relations (hereinafter referred to as the "Commission"), in consultation with the National Association of State Bank Supervisors and the National Association of State Savings and Loan Supervisors, shall conduct a study of all pertinent matters relating to the appropriate relationship between the authority of Federal supervisory agencies and the authority of States with respect to the protection of borrowers from federally chartered financial institutions in connection with terms and conditions applicable to mortgage loan contracts and consumer credit transactions, including, but not limited to, interest rate adjustment clauses, prepayment penalty charges, acceleration clauses, late payment charges, default notices, attorney fees, or maximum interest charges. In conducting such study, the Commission shall consult with the heads of Federal supervisory agencies and with appropriate State officials.

(2) The Commission shall make a report to the Congress of the results of its study, together with such recommendations for legislation or administrative action as it deems appropriate not later than June 30, 1975.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. TAFT. Mr. President, I do not wish to offer an amendment but to address an inquiry to the manager of the bill.

Mr. TOWER. Mr. President, I yield such time to the Senator from Ohio as he may require.

Mr. TAFT. Mr. President, my question relates specifically to the amendment that I believe was adopted earlier, offered by the Senator from Texas. I believe the amendment has been adopted which allows the Federal Home Loan Mortgage Corporation to purchase mortgages pursuant to section 11(i) of the Federal Home Loan Bank Act. Ohio has a sizable group of savings and loan associations, insured under State law, which at present hold about 5 percent of the deposit assets in the State.

Am I correct in assuming that this amendment allows those institutions to participate in the recently announced $3 billion program to provide below-market interest rate funds to be used for residential housing?

Mr. TOWER. Yes, it does.

Mr. TAFT. Would the same be true for savings and loan institutions insured by an entity of the State in North Carolina, Maryland, and Mississippi?

Mr. TOWER. Yes, but I cannot be certain about the States.

Mr. TAFT. The States having such laws.

Mr. BROCK. When it is a subsidy program.

Mr. TAFT. I think my question would so qualify it; only when it is a subsidy program.

I thank the Senator for his explanation.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. McINTYRE. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill.

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

Mr. TOWER. Mr. President, I am prepared to yield back all my time.

Mr. McINTYRE. I yield back all my time.

The PRESIDING OFFICER. All time is yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, may we have order?

The PRESIDING OFFICER. Regular order is called for. The Senate will be in order. The Senate is not in order. The Senate will please be in order.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the Chair for insisting that there be order in the Senate. I hope the Chair will persist until order is secured.

The PRESIDING OFFICER. The rollcall will not proceed until the Senate is in order.

The clerk may proceed.

The rollcall was resumed.

The PRESIDING OFFICER. The Senate is not in order. Pursuant to rule XIX, Senators will go to their seats and respond to the rollcall from there.

The Senate is not in order.

The clerk may proceed.

The rollcall was resumed.

The PRESIDING OFFICER. The Senate is not in order. Senators will conduct their conversations in the cloakrooms. The Senate is not in order under rule XIX. The Senate is not in order.

Will Senators conferring retire to the cloakroom?

The Senate is not in order.

The rollcall was resumed.

The PRESIDING OFFICER. The Senate is not in order. The clerk will not proceed until the Senate is in order.

Will Senators return to their seats and respond to the rollcall from their seats?

Pursuant to rule XIX, the clerk will not call the roll until Senators have resumed their seats.

The rules are XII and XI.

Mr. ROBERT C. BYRD. Mr. President, will the Chair state that ruling again?

The PRESIDING OFFICER. Under Senate rule XII, Senators will return to their seats and respond to the roll from their seats.

Mr. ROBERT C. BYRD. There is no rule requiring a Senator to respond from his seat. I am all for enforcing the rules of the Senate, but there is no such rule.

The PRESIDING OFFICER. Under rule XII, the Chair has the authority to request Senators to return to their seats.

Mr. ROBERT C. BYRD. The Chair has that right, but there is no rule requiring Senators to respond from their seats.

The PRESIDING OFFICER. Well, the Chair is requiring them to return to their seats under rule XIX. They can respond or not.

The rollcall was resumed.

Mr. ROBERT C. BYRD. Mr. President, may I say most respectfully, out of friendly argumentation, that there is no rule under which the Chair can ask a Senator to take his seat, unless he has spoken in a derogatory manner concerning another Senator or another State, and enforce it.

The PRESIDING OFFICER. Debate is not in order in the course of a rollcall. [Laughter.]

Mr. TOWER. Mr. President, I ask for the regular order.

Mr. ROBERT C. BYRD. Mr. President, the Chair is correct.

The PRESIDING OFFICER. Regular order has been requested.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. TOWER. I withhold that.

The PRESIDING OFFICER. A rollcall is in progress.

Mr. PASTORE. Mr. President——

The PRESIDING OFFICER. A rollcall is in progress.

Mr. PASTORE. I know, but I would like to inquire if my name is on the rollcall as having voted.

The PRESIDING OFFICER. The Senator is recorded.

Mr. PASTORE. I thank the Chair. Now the Chair can proceed.

The PRESIDING OFFICER. The Chair thanks the Senator from Rhode Island.

Mr. ROBERT C. BYRD. Mr. President, may I say to the Chair, again in a friendly way, the Chair always has the last word. [Laughter.]

The rollcall was concluded and the vote recapitulated.

Mr. TOWER. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Regular order is called for.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Ohio (Mr. METZENBAUM), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Maine (Mr. HATHAWAY), and the Senator from Wyoming (Mr. McGEE) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON), and the Senator from Montana (Mr. METCALF) are absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Ohio (Mr. METZENBAUM) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Oklahoma (Mr. BELLMON) are necessarily absent.

The result was announced—yeas 89, nays 0, as follows:

[No. 255 Leg.]

YEAS—89

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

NAYS—0

NOT VOTING—11

Baker	Clark	Metzenbaum
Bartlett	Hathaway	Randolph
Bellmon	McGee	Symington
Church	Metcalf	

So the bill (H.R. 11221) was passed.

The title was amended, so as to read: "A bill to amend and extend laws relating to the regulation of depository institutions, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

Mr. McINTYRE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 11221, and that the bill be printed as it passed the Senate.

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

Mr. McINTYRE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. SPARKMAN, Mr. MCINTYRE, Mr. PROXMIRE, Mr. WILLIAMS, Mr. BENNETT, Mr. TOWER, and Mr. BROCK conferees on the part of the Senate.

Mr. TOWER. Mr. President, I move to reconsider the vote by which H.R. 11221 was passed.

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

The motion to lay on the table was agreed to.

PURCHASE OF SERVICES AND PRODUCTS OF THE BLIND AND OTHERWISE HANDICAPPED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from the further consideration of H.R. 11143, and that the Senate proceed to the immediate consideration of the bill.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

H.R. 11143, an act to redesignate the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped as the Committee for Purchases From the Blind and Other Severely Handicapped, to authorize the appropriation of funds for such committee for fiscal year 1974 and succeeding fiscal years.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, I move to strike all after the enacting clause and that the text of Calendar No. 880, S. 2687, be substituted in lieu thereof.

The PRESIDING OFFICER. As reported.

Mr. ROBERT C. BYRD. As reported.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the agreement of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11143) was read the third time and passed.

Mr. JAVITS. Mr. President, there is a slight difference in the title. I move that the title be amended to comply with the text of the Senate bill.

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

The title was amended so as to read: "An act to create a Committee on Purchases of Blind-Made Products, and for other purposes," approved June 25, 1938 (41 U.S.C. 46–48c).

JAVITS-WAGNER-O'DAY LEGISTATION AIDS EMPLOYMENT FOR HANDICAPPED

Mr. RANDOLPH. Mr. President as chairman of the Subcommittee on the Handicapped. I am pleased to support S. 2687, the 1974 amendment to the Javits-Wagner-O'Day Act. This legislation introduced by the able Senator from New York (Mr. JAVITS) provides authorizations for fiscal year 1975 and succeeding fiscal years for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped. It makes other important improvements to this program which provides vital job opportunities for the blind and severely handicapped.

The Committee for Purchase of Products and Services of the Blind ond Other Severely Handicapped is the successor to the Committee on the Purchase of Blind-Made Products which was established by the Wagner-O'Day Act of 1938. That act gave the blind a special priority in selling certain products to the Federal Government. It was amended in 1971 by Public Law 92–28 which extended the coverage of the act to other severely handicapped persons and broadened its scope to include services as well as commodities. In 1973, the act was further amended to increase the authorization for the statutory committee from $200,000 to $240,000 for fiscal year 1974. The authorization under these amendments expires at the end of fiscal year 1974.

The committee performs a valuable service for many severely disabled Americans by increasing the employment opportunities for these handicapped individuals and, where possible, preparing them to engage in normal competitive employment.

During the past 2 years, the statutory committee certified 37 new groups of commodities and 20 services for priority procurement by the Government from blind and other severely handicapped workshops. These additions have an annual sales value of about $5.7 million and provide jobs for over 600 blind and other severely handicapped individuals. Workshop sales to the Government in fiscal year 1973 were approximately $30 million, an increase of $5 million over the previous year.

Over 5,000 handicapped persons are now employed in some 80 sheltered workshops providing goods and services for the Government and other organizations—private and public. The average annual wage for these workers is approximately $3,640. Due in large part to the efforts of the Committee for the Purchase of Products and Services of the Blind and Other Severely Handicapped, these individuals are now gainfully employed and thus are making a substantial contribution to their own support. The small sum appropriated annually for the statutory committee is a constructive investment in our human resources.

S. 2678 provides a continuing authorization to the Javits-Wagner-O'Day committee of "such sums as may be necessary" for its operations. It anticipated that its appropriation will remain at a level of $250,000 to $300,000 over the next 3 or 4 years.

This measure would increase the committee membership from 14 to 15 members by adding a fourth public member, who would be a person with knowledge of problems associated with the employment of the handicapped who are not blind. One member currently represents that group as well as the blind. Under the bill, this member would represent only the blind in the future.

The bill also shortens the title of the committee to "Committee for Purchases from the Blind and Other Severely Handicapped." The word "severely" is re-

tained in the bill as reported, It was omitted by oversight when the bill was introduced.

Finally, S. 2687 clarifies the definition of "direct labor" so that it expressly covers the provision of services as well as the manufacture of commodities.

Last, express my genuine appreciation to Senator JAVITS, the ranking minority member of the Committee on Labor and Public Welfare, for sponsoring this legislation. He has been one of the chief proponents of this measure, having introduced this bill, and also the 1971 and 1973 amendments. His dedication to this program is reflected by the inclusion of his name in the title of the act.

Mr. President, I know my colleagues will support the passage of the Javits-Wagner-O'Day Act Amendment of 1974. The handicapped need the help of the Congress so they may better help themselves and then help others.

Mr. JAVITS. Mr. President, as the distinguished chairman of the Subcommittee on the Handicapped has pointed out, the measure before us, S 2687, extends the Javits-Wagner-O'Day Act. While this may appear to be a minor measure for the Senate—and it is overshadowed by much other major legislation—the more than 5,000 people who work in workshops who would otherwise not be employed were it not for the Javits-Wagner-O'Day Act, this is major legislation for the several thousand additional persons who it is anticipated will obtain gainful employment through the act in the next 5 years.

I have seen what the Javits-Wagner-O'Day Act means in operation, having visited a workshop in New York City conducted by the Federation of the Handicapped under the direction of Milton Cohen, its longtime director. I was tremendously inspired by the degree of work and the dedication of the severely handicapped people employed there and by the deep sensitivity which goes into dealing with them and teaching them, especially the mentally handicapped who are very much in evidence in this operation.

Congress has given these people an opportunity to function as fully active members of the larger community and relieved from them the burden of being dependents of their families and of society.

The Handicapped Subcommittee, under the able direction of Senator RANDOLPH, gave most careful consideration to the legislation before it and has produced a bill which has the support of the administration and of the overwhelming majority of the community which it is designed to serve. This is not a costly measure. As a matter of fact, the expenditure contemplated during the fiscal year runs in the area of a quarter million dollars.

A great philosopher, Maimonides, once described the various levels of charity. The highest level, "the golden mean," he said, was helping someone to help himself. The Javits-Wagner-O'Day Act is not charity, but it is assistance to those of our blind and other severely handicapped fellow citizens who but for this act would not be able to help themselves. And it produces for the government well made products and high quality service. As a matter of fact, these goods are being sold in the Senate stationary room and an arrangement is being worked out with the keeper of the stationery to increase the share of these goods, as is pointed out on page 4 of the committee report.

Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2687 be indefinitely postponed.

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

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Rhode Island were to be recognized, would he yield to me briefly?

Mr. PASTORE obtained the floor.

Mr. PASTORE. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 881 and 882, both of which have been cleared.

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

The clerk will state the first bill.

CERTAIN FEDERALLY OWNED LANDS HELD IN TRUST FOR SISSETON-WAHPETON SIOUX TRIBE

The Senate proceeded to consider the bill (S. 1412) 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 which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 2, beginning with line 16, add the following new language:

SEC. 2. This conveyance is subject to the right of the United States to use and improve such portions of tracts numbered 1 and 2 as the Secretary of the Interior may determine for so long as he deems necessary.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

So as to make the bill read:

Be it enacted by the Senate and House Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in and to the following described lands on the Lake Traverse Indian Reservation in North and South Dakota is hereby declared. subject to all valid existing rights-of-way of record, to be held by the United States in trust for the Sisseton-Wahpeton Sioux Tribe:

(1) The southeast quarter of the southeast quarter of section 16, township 123 north of range 53 west of the fifth principal meridian, containing 40 acres formerly used as the Enemy Swim day school site.

(2) The northwest quarter of the southeast quarter of section 4, township 123 north of range 51 west of the fifth principal meridian, containing 40 acres, formerly used as the Big Coulee day school site.

(3) The southwest quarter of the southwest quarter of section 15, township 126 north of range 52 west of the fifth principal meridian, containing 10 acres, formerly used as the Long Hollow day school site.

(4) Lots thirteen, fourteen, fifteen, and sixteen of block twenty-six, original townsite of Sisseton, South Dakota, containing 0.24 acre, formerly used for Agency office and superintendent's quarters.

SEC. 2. This conveyance is subject to the right of the United States to use and improve such portions of tracts numbered 1 and 2 as the Secretary of the Interior may determine for so long as he deems necessary.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

The amendment was agreed to.

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

FOREIGN INVESTMENT STUDY ACT OF 1974

The Senate proceeded to consider the bill (S. 2840) to authorize the Secretary of Commerce to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert in lieu thereof:

That this Act may be cited as the "Foreign Investment Study Act of 1974".

SEC. 2. The Secretary of the Treasury and the Secretary of Commerce are hereby authorized and directed to conduct a comprehensive, overall study of foreign direct and portfolio investments in the United States.

SEC. 3. The Departments of Commerce and Treasury, in consultation with appropriate agencies, shall determine the definitions and limitations of direct and portfolio investments for the purposes of the study authorized in section 2 of this Act.

SEC. 4. In carrying out the study described in section 2 of this Act, the Secretary of Commerce and the Secretary of the Treasury shall, respectively and jointly as may be appropriate—

(1) identify and collect such information as may be required to carry out the study authorized in section 2 of this Act;

(2) consult with and secure information from (and where appropriate the views of) representatives of industry, the financial community, labor, agriculture, science and technology, academic institutions, public interest organizations, and such other groups as the Secretaries deem suitable; and

(3) consult and cooperate with other government agencies, Federal, State, and local, and, to the extent appropriate, with foreign governments and international organizations.

SEC. 5. The Secretary of Commerce shall carry out that part of the study authorized in section 2 of this Act relating to foreign direct investment, and shall, among other

things, to the extent he determines feasible, specifically—

(1) investigate and review the nature, scope, magnitude, and rate of foreign direct investment activities in the United States;

(2) survey the reasons foreign firms are undertaking direct investment in the United States;

(3) identify the processes and mechanisms through which foreign direct investment flows into the United States, the financing methods used by foreign direct investors, and the effects of such financing on American financial markets;

(4) analyze the scope and significance of foreign direct investment in acquisitions and takeovers of existing American enterprises, the significance of such investments in the form of new facilities or joint ventures with American firms, and the effects thereof on domestic business competition;

(5) analyze the concentration and distribution of foreign direct investment in specific geographic areas and economic sectors;

(6) analyze the effects of foreign direct investment on United States national security, energy, and natural resources, agriculture, environment, real property holdings, balance of payments, balance of trade, the United States international economic position, and various significant American product markets;

(7) analyze the effect of foreign direct investment in terms of employment opportunities and practices and the activities and influence of foreign and American management executives employed by foreign firms;

(8) analyze the effect of Federal, regional, State, or local laws, rules, regulations, controls, and policies on foreign direct investment activities in the United States;

(9) compare and contrast the foreign direct investment activities in the United States with the investment activities of American investors abroad and appraise the impact of such American activities abroad on the investment activities and policies of foreign firms in the United States;

(10) study the adequacy of information, disclosure, and reporting requirements and procedures;

(11) determine the effects of variations between accounting, financial reporting, and other business practices of American and foreign investors on foreign investment activities in the United States; and

(12) study means whereby information and statistics on foreign direct investment activities can be kept current.

SEC. 6. The Secretary of the Treasury shall carry out that part of the study authorized in section 2 of this Act relating to foreign portfolio investment, and shall, to the extent he determines feasible, specifically—

(1) investigate and review the nature, scope, and magnitude of foreign portfolio investment activities in the United States;

(2) survey the reasons for foreign portfolio investment in the United States;

(3) identify the processes and mechanisms through which foreign portfolio investment is made in the United States, the financing methods used, and the effects of foreign portfolio investment on American financial markets;

(4) analyze the effects of foreign portfolio investment on the United States balance of payments and the United States international investment position;

(5) study and analyze the concentration and distribution of investment in specific United States economic sectors;

(6) study the effect of Federal securities laws, rules, regulations, and policies on foreign portfolio investment activities in the United States;

(7) compare the foreign portfolio investment activities in the United States with information available on the portfolio investment activities of American investors abroad;

(8) study the adequacy of information, disclosures, and reporting requirements and procedures; and

(9) study means whereby information and statistics on foreign portfolio investment activities can be kept current.

SEC. 7. (a) The Secretary of Commerce and the Secretary of the Treasury may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate to be fixed by the Secretaries concerned but not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services for the Department of Commerce or the Department of the Treasury in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) The Secretary of Commerce and the Secretary of the Treasury are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of any agency or instrumentality of the Federal Government in conjunction with the study authorized in this Act.

SEC. 8. The Secretary of Commerce and the Secretary of the Treasury shall submit to the Congress an interim report eighteen months after the date of enactment of this Act, and not later than two and one-half years after enactment of this Act, a full and complete report of the findings made under the study authorized by this Act, together with such recommendations as they consider appropriate.

SEC. 9. There is authorized to be appropriated a sum not to exceed $3,000,000 to carry out the purposes of this Act. Any funds so appropriated shall remain available until expended.

The amendment was agreed to.

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

The title was amended so as to read: "A bill to authorize the Secretary of Commerce and the Secretary of the Treasury to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the appropriate extracts from the committee report be inserted in the RECORD in explanation of the bill.

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

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. What is the pending business?

The PRESIDING OFFICER. The amendment has been agreed to, and the bill, S. 2840, as amended, is passed.

Without objection, the title will be appropriately amended.

AMENDMENT OF THE COMMUNICATIONS ACT

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

The PRESIDING OFFICER (Mr. NELSON). Under the previous order, the Senate will now proceed to the consideration of S. 585, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 585) to amend section 303 of the Communications Act of 1934 to require that radios be capable of receiving both amplitude modulated (AM) and frequency modulated (FM) broadcasts.

The Senate proceeded to consider the bill.

Mr. PASTORE. Mr. President, the bill was introduced by the Senator from Utah (Mr. Moss).

What it would do is to amend the Communications Act to give the Federal Communications Commission authority to require that all AM and FM radios shipped in interstate commerce or imported from any foreign country into the United States be capable of adequately receiving both AM and FM signals. This requirement would not apply to radios retailing for less than $15.

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

Mr. PASTORE. I yield.

PRIVILEGE OF THE FLOOR

Mr. McCLURE. I ask unanimous consent that James Streeter, of my staff, be accorded the privilege of the floor at all phases of the consideration of this measure.

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

Mr. McCLURE. I ask unanimous consent that it be in order to request the yeas and nays on passage.

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

Mr. McCLURE and Mr. PASTORE requested the yeas and nays.

The yeas and nays were ordered.

Mr. PASTORE. This legislation is intended to assure that the American people receive the maximum radio broadcasting service available. At present a significant segment of the total radio audience do not possess receivers capable of receiving FM signals. As a consequence, many FM channel assignments are lying fallow and many FM stations which are on the air operate at a loss.

In assessing the need for an all-channel receiver law, the committee sought to determine whether the public's interest in the larger and more effective use of radio requires one. The testimony of 23 witnesses demonstrated strongly that the public interest would be served by the passage of this legislation.

Despite an improved growth pattern in recent years, FM radio has not developed to a point where the listening public is receiving the benefits it should from this technology. Members of the public who do not have an FM radio either at home or in their cars are cut

off from nearly 42 percent of the radio stations now on the air.

In many areas of the country, local radio service is provided by daytime-only AM stations. Of the 4,402 stations on the air, one-half operate from sunrise to sunset. Consequently, the people in these areas are dependent upon these daytime stations for local news, information about school openings and closings, and local weather reports including tornado watches and storm warnings. Between sunset and sunrise, therefore, these people are without a radio source for information about such important local events.

As a matter of fact, it was dramatically emphasized during our hearings that in some of the areas of the country where there has been catastrophic damage because of the weather storms or tornadoes, much of the news could not be brought to the people.

In many of these areas, FM signals have been assigned. When and if FM becomes a viable medium, stations will undoubtedly come on the air. Because of the superior characteristics of the FM signals, such stations will be able to operate nighttime as well as daytime, thus making vital information available around the clock.

For all practical purposes, space in the AM portion of the spectrum is exhausted. The future development of aural broadcast facilities therefore rises with FM into a single aural service.

More important, nearly all public broadcasting stations with the unique programing they offer are located in the FM band.

According to one of the studies submitted to the committee, the cost of adding FM to a house radio are nominal and will likely be further reduced by technological improvements.

Another study submitted at the hearings demonstrates that the actual out-of-the-pocket costs for adding to a typical AM-only car radio is minimal, about $7.

I think I ought to emphasize this because an argument will be made that this proposal will gouge the consumer. That is not true at all. What the automobile manufacturers are doing is using a rule of thumb: If a person orders only an AM set in his automobile, they charge a certain amount of money, let us say, $40 or $50. If he wants FM and AM, they double. It costs them only about $6 or $7 to do it, but they double, just as a rule of thumb. If he goes to stereo, they triple it.

If the consumer is being gouged at all, he is being gouged because the manufacturers are doing it, not because of the dual capacity of the radio set itself.

Furthermore, having had the experience with the all-channel television receiver legislation in 1962, I believe the same situation will be duplicated with the enactment of this bill. Namely, the prices for AM/FM receivers could come down due to the large volume of such radios which will be manufactured.

After 30 years of experience it should be apparent that absent affirmative action by the FCC, the public will not fully realize the potential of FM radio in the foreseeable future.

Whatever encroachment the legislation would make on the public's right of free choice is minimal, and is far outweighed by the attendant benefits the public will receive from a flourishing FM service.

Enactment of this bill will, in my judgment, make a significant contribution to the further expansion of the radio broadcasting industry with all of its implications—more jobs in manufacturing, in retailing, in servicing, and in broadcasting.

I hope the Senate will pass the bill.

Mr. President, the proposed legislation was introduced by the Senator from Utah (Mr. Moss), and I yield to him at this time for further elaboration of the need for this measure.

Mr. MOSS. Mr. President, I thank the Senator from Rhode Island, the chairman of the Subcommittee on Communications, for his vigorous work on the bill before us.

It is a long journey that has brought this bill to the floor of the Senate today. It began on June 11, 1968, when I introduced my first all-channel radio bill. In each intervening Congress I have reintroduced the bill and have restated my conviction that the public deserves access to the broadest possible range of radio services. The passage of this bill by Congress would assure that this would be so.

S. 585 is a simple bill. It would amend the Communications Act to give the Federal Communications Commission authority to require that all radio receivers selling for more than $15—and shipped in interstate commerce, or brought in from any foreign country—be capable of reception of both FM and AM bands.

The bill follows the pattern set a number of years ago when we passed legislation requiring that both UHF and VHF reception be built into all television sets.

Recent studies, which were discussed in full at the committee hearing on S. 585, indicated that the actual out-of-pocket cost for adding FM to a typical AM radio would be only about $7 and this would be true of car radios as well as those of other types. Mass production would probably bring this price down considerably.

Again, we might draw from the experience we had when the UHF–VHF bill went into effect.

A TV manufacturer reminisced recently:

> I remember all of that jazz about how all-channel TV tuners would cost $8 to $10. We're making them now for $1.50 to $2.00 and delighted to get the business.

At the present time, a substantial segment of the radio audience does not own radio receivers which can receive FM signals. Since there are well over 3,000 commercial and noncommercial FM stations, this is a great loss both to the listening audience and to the stations themselves.

Although many homes do have, somewhere in them, a radio which will receive FM broadcasts, only about 25 percent of all cars have factory-installed radios, and it is estimated that overall, whether the public is at home or in their cars, they are cut off from nearly 42 percent of the radio stations now on the air.

Since we have reached the limit on AM frequencies, any new stations must be FM. Building up the audience for FM listening, therefore, means not only a better deal for the radio public, but more jobs in radio manufacturing, in retailing, and in servicing, more broadcasting jobs in FM stations, and more economic security for the stations themselves.

There have been a number of significant recent developments in the broadcasting world which make the passage of the bill today even more of a plus than it could have been in any of the 5 years since it has been introduced. The timing is good.

First, the FCC has come to realize that radio is a single aural service that operates on two bands, and the Commission now regulates it as a single service;

Second, public noncommercial radio has blossomed in the last few years, and has become a full-fledged radio service on FM. Its increasing coverage of the governmental process provides a significant new perspective for the American people of their national and local governments at work;

Third, the microchip technology holds the promise of revolutionary new radios with all-channel capability that will be small both in size and in cost;

And finally, we have at hand the results of two very good studies which are available to answer those who still may wish to protest the AM–FM requirement on the basis that its costs will be too much for the public to bear.

Mr. President, the American consumer is probably not aware that we have reached the limit on AM frequencies in our precious stockpile, and that virtually all new radio stations will be FM stations. Many people continue to buy only AM radios not knowing they cannot hear any of the new stations which will spring up in the years ahead—new stations with new, interesting, and probably controversial programs. They buy radios today unsuspecting of the fact that they are vastly limiting their horizons.

Additionally, and I believe of equal importance, is the very fact of public broadcasting. Congress is now appropriating funds from general taxpayers' revenues to increase noncommercial broadcasting, which, incidentally, can only expand FM frequencies. The continued manufacturer of AM-only radios is making those tax dollars less effective, and is shortchanging those who buy radios only because they are not getting full value from their tax dollars.

Mr. President, before concluding, I wish to thank again the chairman of the Communications Subcommittee of the Senate Commerce Committee, Mr. PASTORE, for holding the hearings on this bill and for bringing it to the floor of the Senate. Also, I express my appreciation to the many people and organizations who joined the cause of all-channel radio to make the hearings so effective and

authoritative that there was no question that the bill should be reported to the Senate, and should be passed.

Mr. President, I hope that we can, today, pass the bill and send it along, so that it may become law.

Mr. GOLDWATER. Mr. President, I should like publicly to ask that someone fix this microphone of mine. [Laughter.] Or I will come down and fix it myself.

Mr. President, I wanted to ask the distinguished Senator from Utah (Mr. Moss) a question and make a few comments.

Would this requirement for FM and AM be applied to stereo sets that we buy for our homes? Most of them today carry only FM, because FM is the only frequency on which we find stereo broadcasting.

Mr. MOSS. It would not be mandatory by this legislation alone but the FCC, by regulation, can determine that, in making its regulations, while it is possible to buy a stereo set without FM in it.

Mr. GOLDWATER. I ask that question, because most stereo equipment for the home does not have AM. The user only wants stereo, and he cannot get that through AM. So I hope we will make it clear that it would involve a change in the law on this piece of equipment, and that cost is not involved in it.

Mr. MOSS. Of course, none of this is retroactive. It applies only to manufacturing after this becomes effective in the law; but the power is granted—in fact, the authorization is given—to the FCC, by regulation, to put it into effect, and, in my opinion, the FCC does have the power to make the exceptions for certain specialized types of equipment.

But the ordinary radio which we can go out and buy in a store, send away for from a mail order catalog, or have installed in one's car, will have to be on both bands if it is shipped in interstate commerce.

Mr. GOLDWATER. Let me make this observation, that one of the reasons why many more car radios do not have FM in the 80- to 108-megahertz range is that reception is not uniformly good. Even in the city of Washington, when driving to work, it is difficult to get any one station that will remain tuned for that period, due to the fact that these waves do not bounce off the ionosphere, but are directed to go from the transmitter direct to the receiving set. Therefore, many people, when they buy automobiles, do not put FM in the car. They are interested in stereo reception from FM radios, but if we get more than 20 miles away from an FM station, reception is most difficult. I am not speaking against this concept. I think it is an idea that runs a little bit against the grain of those who like the free enterprise system and would like the system to make its own choice; nevertheless, if we do have the spectrum—and we do—then I see nothing wrong with making the addition which is being made in this bill. It does not amount to a lot of money. We can buy one with AM for $2 and one with AM and FM for around $7. Car equipment costs more, because it requires miniaturization. I think, with this becoming mandatory, the manufacturers will get into miniaturization more than they have and the price will come down.

I wanted to make it clear that making FM available in an automobile is not saying that we will get good reception, because we will not. It requires, for proper reception, a decent antenna and also some permanency in the frequency.

Mr. MOSS. I thank the Senator from Arizona for his comments. He is correct about the need for a direct line so that FM signals can be picked up. I might say, loosely, that in my experience, one cannot remain tuned in tightly on an AM station in many situations here in Washington. There is a news station that I try to pick up, sometimes in the afternoon, but I get so much interference coming over and it fades out so that instead of news I am getting some rock and roll music, which I do not especially want to bring in. That is because that AM band is many times jammed and has these strong stations on it. That is the reason why we need more variety to pick up FM.

Even if we are a long distance away, traveling in the car, 20 to 40 miles away, we will probably pick one station, but still it is available to us. I would emphasize that the testimony shows, first, on the minimal cost that the Senator referred to, that it will undoubtedly come down with mass production, and second, a great service has been performed in the smaller communities which had tornadoes recently. In nearly every instance, it was the FM station that was the one that could get out the local warnings. It was not the big station 200 or 300 or 400 miles away. It was the local station, and those stations, of course, being local, were able to give adequate warning to those who were driving their cars which had FM radios, or to those who had FM radios in their homes, so that they could take appropriate precautions against the storm.

Mr. GOLDWATER. The Senator is running into trouble on the AM frequencies, because nighttime power is different, and it is possible to receive west coast stations in Washington. I remember during World War II, when I was in China, we used to pick up a broadcasting station in Salt Lake City which was working on AM.

The only way we are ever going to correct that, of course, is to cut down the number of stations, which we will not do. What we will probably do will be to go more to the European system.

The European countries are now using frequencies in the 7,000-megahertz class and the 14,000-megahertz class, and are even beginning to go into the 21,000-megahertz. All the good foreign broadcasting is done on those frequencies. They do not bother the Senator from Utah, but they give us radio operators a bad time.

There is not much we can do about it. When we go to the occasionally held frequency conference in Geneva, we come out the last guy on the stick. The United States has taken a bad beating on it. I am hoping that when the frequency conference is held again, we can get the committee interested, and perhaps send some staff people over there to fight the battle for us.

We are slowly losing a lot of our spectrums to the European broadcasters who use frequencies that we need, not just for amateur use, but also for communications use in general by the armed services and by political entities.

Mr. MOSS. I again thank the Senator. His expertise in this field is well known, and his comments do indeed enhance our record to indicate the problems that still exist in this broadcasting field.

We hope we can move ahead as suggested. I do hope that he will support this bill.

Mr. PACKWOOD. Mr. President, will the Senator from Utah yield for a question?

Mr. MOSS. I yield.

Mr. PACKWOOD. I did not quite understand the Senator's former answer about radio tuners that we buy for our homes in a class of expense anywhere from $200 to $800, where a good many of us have the desire to have an AM tuner. As a matter of fact, I am trying to build a digital tuner that is just FM.

Is this kind of legislation going to prohibit us from being able to purchase, or is this in any way a directive to the FCC to say, "No more can you have in your homes the tuners that are just FM"?

Mr. MOSS. No, it certainly never would impinge on any tuner that the Senator would build himself and put together, because that is not a manufactured product made and shipped in interstate commerce. He would make it in his home for his home.

Mr. PACKWOOD. That is not quite true. I am not as expert as Senator Goldwater. This is indeed a kit purchased in Michigan and sent through the mails. So it is in interstate commerce.

Mr. MOSS. Again I must say that that, of course, is going to be set up by regulations. We have authorized the Commission to make this requirement. The Senator is not asking that he be excused from getting an FM band, but that he be excused from getting an AM band, as I understand it.

Mr. PACKWOOD. That is correct.

Mr. MOSS. Frankly, we did not take testimony on that, and we did not write that into the report. My observation, however, is that by regulation the Federal Communications Commission can exempt certain specialized types of receivers. That is the answer I tried to give the Senator from Arizona, who talked about stereo, that on a stereo set there could not be a requirement of adding on all of the bands if there was a specialized reason for it.

The real thrust of the bill is that the average consumer, the man who does not know all about radios the way the Senator from Arizona does, is at the present time blind or not informed about what his radio will do. He just goes down and buys a radio. It is particularly true of automobiles. He ends up simply with an AM band. Thereafter, to buy a con-

version kit of some kind to put in FM is an expensive and troublesome thing. So he is limited pretty much to his AM band.

Because of the great success that UHF–VHF brought us in television, we have concluded as a committee that we ought to do the same thing with radio. When one buys a radio, he will get both bands on it. If he is going to specialize beyond that in some way, that will have to be done by regulation of the Federal Communications Commission.

Mr. PACKWOOD. Can we make certain in our colloquy here? The Senator uses the term "specialized," and there is some reference in the report to marine bands. The kind of tuner I am talking about is not a specialized band. It is the kind of tuner one would see in almost any hi-fi or stereo store.

With respect to most of the better models—Harman-Kardon, Thomas, Scott, or Fisher—when one is buying a tuner, not an FM tuner, it is bought by select people who know what they want, but those models do pick up regular broadcasts, not just short-wave or marine bands.

I want to make sure that the FCC does not feel compelled to say that all tuners, be they $15 tuners or $500 tuners, must have an AM and FM band combined in the same tuner.

Mr. MOSS. It is the intention of the legislation to give flexibility to the FCC in its rulemaking, on which hearings would be held and testimony taken. I think that power on rulemaking would reside with the FCC, and it certainly would be within their power to grant the kind of exemption that the Senator is talking about.

Mr. PACKWOOD. Just so that we understand, the bill we are considering today does not compel AM–FM tuners for every price from $15 and up. Is that correct?

Mr. MOSS. That is right. This has to be by regulation of the Commission.

Mr. PACKWOOD. I thank the Senator.

Mr. MOSS. The Senator from Kentucky is the ranking minority member of the subcommittee, and perhaps he would like to speak.

Mr. COOK. I may speak before the debate is concluded, but the Senator from Idaho asked for approximately 10 minutes, and I am perfectly willing to yield. The Senator from Michigan also wishes 5 minutes.

Mr. McCLURE. I thank the Senator, Mr. President, for yielding this time.

Mr. President, I have requested to speak on this bill—one which many other Senators seem to feel is rather a minor matter. However, while it may not be a fundamentally important bill, it is one of those irritating busybody laws that pass unnoticed and take away just a little bit more of our "unimportant" freedom. The bill gives the FCC authority to require that all radios costing more than $15 be capable of receiving AM and FM. The committee report says the bill "is intended to assure that the American people receive the maximum radio broadcast service possible"—and they are going to get that service whether they want it or not. Obviously there is no public demand for this bill. Anyone who wants an AM/FM radio is free to buy one. More than 90 percent of the expensive home-use radios sold are AM/FM anyway.

On the other hand, the bill will have an impact on car buyers. They face these options: Purchase a very expensive AM/FM car radio, or no radio at all. And since many people cannot afford it, the practical effect is that a certain percentage will choose no radio at all.

It is not often today that the American consumer has a chance to get something from the Federal Government for a bargain price, but that is what the committee purports to accomplish in reporting this legislation.

By authorizing the Federal Communications Commission to require that all radios retailing for more than $15 must have AM/FM capability, the committee proposes to legislate an increased FM market. The bill is aimed primarily at the automobile radio market, because of the fact that only only 25 percent of factory installed car radios have FM capability. It may be noted that in 1964 only 4 percent of the cars sold had FM radios while by 1973 this percentage had risen to 28 percent.

In addition, the electronics industry indicated that a substantial number of buyers install FM radios so that the total percentage of radios sold in 1973 within FM capability was about 40 percent. Furthermore, it is estimated that this figure would rise to about 75 percent by 1978.

The committee report suggests that increased costs will be nominal and cites two studies by private consulting firms in support of that argument. The report also declares that the "encroachment—on the public's right of free choice is minimal, and is far outweighed by the attendant benefits the public will receive from a flourishing FM service."

However nominal the cost may be, the public is entitled to a better idea of what those costs will be. With respect to car radios, the A. D. Little consulting firm concluded that the parts and labor cost for adding FM capability is about $7. But that is a 50-percent increase over the estimated parts and labor cost of producing an AM only radio, and excludes general and administrative costs as well as manufacturer and dealer markups.

The other study referred to in the committee report was conducted by the consulting firm of W. J. Kessler Associates. In this report the firm suggested a way of lowering the cost of AM/FM car radios by adding on converters at the manufacturing stage. However, the report indicated that there still could be as much as a 40-percent increase in the average retail price of a standard auto radio.

It is interesting to note the testimony before the committee by the chairman of the FCC, the agency given the responsibility for implementing the provisions of this bill. While supporting the objectives of this legislation, Chairman WYLIE pointed out the following:

> Very candidly, Mr. Chairman, I can't accurately predict what effect the legislation may have on the price—whether an AM/FM auto radio will continue to cost what it does today or when or to what extent competitive forces or economies of production might result in a lower price to the consumer. In the meantime, as a result of the passage of S. 585, the consumer would lose the AM only option now available and be faced—particularly when he buys a car—either with doing without a radio or paying more and getting an AM/FM radio.

If the auto companies are charging excessive prices for AM/FM radios, and I am not defending their pricing policies, there is certainly no assurance that this bill will lead to lower prices. In fact, the opposite is likely to occur through the creation of a captive market.

To suggest that the consumer will be getting additional radio service at a cheap price is to defy the laws of economics and reality.

Anyone in the broadcast industry will tell you that rush-hour driving time is the most profitable broadcast time. And that Mr. President, is what is really behind this bill—an effort to give FM broadcasters a market they could not earn through free competition.

We are not saying that this is a threat to the basic freedoms we enjoy. What we are trying to say is that it violates the basic assumption that every American should be free to act in any way so long as his actions do not harm the rights of others. This bill substitutes the judgment of unelected bureaucrats for the individual decisions of free American people. When I was campaigning for the Senate, I promised to work toward repeal of some of our wasteful and unnecessary Big Brother laws already on the books. Certainly a corollary obligation is to see that no new such laws are enacted.

While we all pay attention to major issues that affect our freedoms, we should also pay attention to the minor ones that slip by unnoticed. Freedom can be lost in small increments as well as major upheavals.

In a few days the Senate is expected to take up the misnamed Consumer Protection Act. If we are truly concerned about protecting the consumer, we should do it by protecting his freedom of choice in the marketplace. Free men do not need to be protected from themselves.

This bill ought to be defeated, because it is an unnecessary intrusion on the rights of the people to make decisions effecting their own lives—though I concede this bill only affects a small particle of freedom.

Mr. President, the RECORD also should note that the Department of Justice recommends against the enactment of this legislation, a matter which is glossed over in the committee report. I think some comment should be added to the colloquy that took place with respect to the questions of the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. PACKWOOD) as to whether or not AM should be mandated.

If the real reason, as stated by the Senator from Utah, is to require everyone to have the full spectrum—which is

the reason for this legislation—the FCC would have to mandate the AM band on these high-priced home receivers as well as the mandate for FM on the less expensive auto receivers.

The real motive is not to provide a better spectrum for the consumer, but to create a market for a certain few in the broadcast business, and that is not the right of Congress to mandate.

Mr. HRUSKA. Mr. President, will the Senator yield a little time to me for the purpose of asking a question?

Mr. McCLURE. If I have time remaining I yield to the Senator from Nebraska.

Mr. MOSS. I am happy to yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I was not present during the discussion of that part of the bill relating to increased costs. My attention has been called to the fact that one of the popular-make automobile manufacturers advertises an AM radio when installed in a newly purchased car at $60 and an AM–FM combination for $120.

I read with curiosity in the report that the cost would be increased $6 or $7. I cannot quite reconcile that with this bit of information. Can the Senator enlighten me?

Mr. MOSS. I shall be glad to answer. This is a question that arose during the hearings. As the Senator noted, automobile manufacturers generally double the cost of radios with the FM band. Consequently, the Arthur D. Little Co. was commissioned to make a study of the cost of adding the FM band to a standard AM radio, such as a car radio. The testimony was, and it was not disputed during the hearings, that it would cost $6.95 with the FM band.

Consequently, some members of the subcommittee have asked why we do not start a hearing of the manufacturers and find out why they are gouging the consumer by that added cost rather than the mere expense of the FM band.

Mr. HRUSKA. I would suggest that the significant difference is justification for further study.

With respect to the Arthur D. Little study, the consumer will not be able to take that study to the automobile dealer and say, "I want an FM radio and I will pay you $7 more," and the dealer will then put it in. Instead, the consumer has to fork over $120.

We also have the complaint of the Federal Government getting involved in the operation of the free market. Here we have a bill that proposes to take from the consumer his choice of whether he wants a $60 radio or a $120 radio.

Mr. MOSS. It would not work out that way. As a matter of fact, the Ford Motor Co. acknowledged that the overcharge is high and if the AF–FM radio became the base radio for the Ford automobile they feel the volume of increase would create some unit savings and cost savings would be 10 percent to 15 percent immediately.

Mr. HRUSKA. If it is a 10-percent saving, that would reduce the cost from $120 to $108.

Mr. COOK. No, from $60 down.

Mr. MOSS. Yes, from $60 down. That is what they add on to put in the added band. The Senator said 10 to 15 percent. But what will happen and what we feel confident will happen is what happened with UHF–VHF television. That used to be an expensive proposition. In fact, there was great resistance to this bill when it came before our committee. Actually, when it became a requirement on television to have both UHF and VHF the cost plummeted down to where it was so minimal there was hardly any difference between what it used to cost for a single channel television set.

Mr. HRUSKA. I would like to observe that some 11 million new automobiles a year are manufactured. Ninety percent have radios. Seventy-two percent of these are AM radios only. If the cost difference between AM and AM–FM is averaged at $50, the added cost to the consumer would be about $350 million.

One can say, "All right, let us use $10 as an average cost difference." Even $10 would amount to a $70 million cost to the consumer. That is a lot of money. Somebody ought to be speaking in behalf of the consumer, as suggested by the Senator from Idaho.

Mr. COOK. Mr. President, I will not buy the proposition that if people can afford to buy an automobile they are not going to buy an AM–FM radio rather than just an AM radio.

Mr. HRUSKA. That would be a decision for the automobile industry. I do not think the decision would be uniform. The woods are full of people searching for capitalistic ventures of that kind in order to make a profit.

It is not for Congress in its all-encompassing wisdom to say we know better than the open market or we know better than the customer as to what he should or should not buy.

Mr. COOK. Mr. President, I yield myself 5 minutes.

Mr. President, it is rather amazing for me to hear what is being said here today because we established an AM band of from 535 to 1605 kilocycles. The Government established it for the purpose of having an AM radio band. We now have 4,403 stations using that band. The Federal Government also established an FM band, and that FM band is now also available to the public. We now have two bands because of overcrowding. This reflects on the individual who goes in to buy a radio and, because the salesman does not say he ought to have an AM–FM radio, he buys an AM radio. Let us say it is a college student or a young fellow who just got married. He buys an AM radio. He goes to a friend and hears some good music and asks him what station that is. And the friend asks, "You mean you do not have an FM radio?" When he learns that, he feels he has been cheated.

Let me say to the Senator from Nebraska and the Senator from Idaho that I have seen sales on radios that did not say they were AM or FM. They would be on sale for $9.95 or $10.95, and nobody said a word about it, but they were all AM radios.

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

Mr. COOK. I yield.

Mr. McCLURE. What the Senator is saying to me, and I assume in justification of this legislation, is that the people of this country are too stupid to know what they want to buy.

Mr. COOK. Not at all, and the Senator knows better, and I will not buy that theory at all. The Senator knows better than present that theory to me. The Senator just a minute ago said that because a radio may cost $35 or $40 or $60, a person will not buy an automobile with that radio. I am telling the Senator I cannot buy, nor can many people buy, the theory that when a man buys a $5,000 or $6,000 automobile he is not going to buy the automobile because it includes a radio that will cost $50 or $60.

Mr. McCLURE. Will the Senator yield?

Mr. COOK. I yield.

Mr. McCLURE. I did not make that statement. I said he should have the option to buy or not to buy that radio.

Mr. COOK. The Senator said he might not buy the automobile with that radio. I seriously doubt that he is not going to buy the automobile because it does or does not have such a radio. It seems to me there is a degree of theory that we are trying to attribute to FM radio, but it also shows that there is a degree of theory to be made for AM radio. Maybe there is a theory that there may be a group of AM radio people who do not want a bill that says they must have both AM and FM radios. Maybe we ought to look at it from both sides of the spectrum. Maybe we ought to admit that there are some people looking after the AM radio interests throughout the country.

I want to tell the people, through the RECORD, that there are literally hundreds and hundreds of daylight-to-dark stations. They operate only from sunup to sundown. FM radios, because of their limited range, can operate on a 24-hour basis.

I have a telegram from the head of Morehead State University, who gives credit to the FM station in his community for having stayed open on April 3 all night when, in the Commonwealth of Kentucky, almost 40 tornadoes were sighted and we lost somewhere in the vicinity of 50 lives, and the only basic communication warning and information sources that the people had was a 50,000-watt station out of Louisville and the FM stations that were allowed to stay on after dark.

There is a degree of public interest involved in the ability to be in communication, to have the people have local communication at all times, which they do now have on the AM band.

So I am saying that perhaps we are extending the right under the first amendment of the people's ability to know and be told the problems of the country in the event of disaster.

So what I am saying is that we fight a situation here where we created an

AM band a few years ago, and everybody was content with it, and it is now a band that operates from 535 to 1605 kilocycles and contains over 4,400 radio stations.

We wanted to make available to the American public another band, and it was made available, and we are now saying that, when we made that FM band available, we now want to see that you have the opportunity to utilize that band. That, to me, makes a good deal of sense.

I would hope to back up what the Senator from Nebraska said—that we ought to do something about the matter of whether it is a $60 increase; because I have to tell Senators that, if people do not have FM radios in their automobiles, they can get them installed very easily. At Hechinger's parking lot someone put in an FM conversion for $18, and it was so advertised. Senators know that, if they can do it for someone who already has an AM radio in there for that price, the price of FM to begin with is not going to cost anywhere near $18.

So I would suggest I think we are doing the citizens of the country a good and indeed a proper service by making available to them as much communication as we can get to them.

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

Mr. HART. Mr. President, I approach this question with somewhat mixed feelings. I am delighted that there are some Senators here expressing concern about the welfare of the consumer.

That aside, and addressing directly the proposal pending, Mr. President, I conclude that this is one of those exercises in elitism about which the Federal Government, and particularly the Congress, is increasingly being criticized. The bill's purpose is not to give the American public an opportunity to have AM or FM. Its effect is to make you buy FM whether you like it or not. That is what we are doing. We are imposing it—like it or lump it. If one wants a radio, he is going to have to have AM and FM.

As was said, the marketplace permits one to make a judgment. I may have an AM–FM radio in my car, if I want to, or in my home. I may decide to get an AM only, if that is my desire.

I am one of the people here who generally are labeled by the critics as overeager to regulate what shall be put on the market. I plead guilty to being overeager to regulate something if it affects my health and my safety, but beyond that I suggest we ought not go.

Really, the only argument that has persuasive force to justify this bill is that, somehow or another, I will be safer and the Nation will suffer a lower health cost if everybody is required to have, if he has a radio at all, an AM and FM radio because in the middle of the night the local tornado warning will not be available to him except on FM.

Well, if that is really the theory, this legislation should be amended, and it should require that every car and home have a radio and not just every radio have an AM and FM band. The next step is to require that they not only have an AM and FM radio; they must keep it on FM only.

In this way we would add to the health of the community, but we are not ready to go this far, I hope.

It seems to me there is clearly going to be an added cost. Senators cannot convince me that an FM can be provided at the same price as an AM. Even those who support the bill acknowledge there is an added cost.

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

Mr. HART. What do we get for it? We have the opportunity now to get FM if we want it. If we are compelled to get it, if one would prefer only AM, he would have been denied an opportunity at a price which, I think, is not justified.

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

Mr. HART. Yes.

Mr. PASTORE. Of course, the Senator from Michigan knows the high respect I have for his opinion on almost any subject. I know what a great advocate he is of the consumer interests, and he and I have joined in this crusade year in and year out.

Mr. HART. That is correct.

Mr. PASTORE. It is only regrettable sometimes that we have to act in a negative way to get a positive result.

If the Senator will recall, the same arguments were made at the time we made all television sets all-channel sets. There was one time, of course, when they were all VHF, and then the big serious question came up if we were going to accommodate the public fully that we would have to make them all-channel sets and, for that reason, we passed legislation not too long ago, and I think the Senator from Michigan favored the legislation at that time.

Mr. HART. I did then and I do now.

Mr. PASTORE. Yes, that is true.

I think we did a good thing. I think we did add a little bit to the cost but, in the long term, it was worth it for this reason: Not only did we add to the spectrum because we had more channels under the UHF spectrum, but even beyond that, we brought into being public television, and public television would not exist today if it had not been for UHF, and that is the big contribution that we made to the country.

Now, I am saying in this particular case——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PASTORE. Mr. President, can I have another minute?

Mr. HART. I do not have it.

Mr. COOK. I will yield 2 more minutes, Mr. President.

Mr. PASTORE. The same can be said about what we are trying to do here.

I know it can be argued by some people, Why should not the purchaser have the right of choice? It is hard to knock that down; that argument is hard to refute. But the point is that FM is coming into being.

I remember in my State the pioneer in FM was WEAN. That was the first station in my State to have FM.

When they went off the air for 1 hour, they did not get one call. It broke their heart. Apparently nobody listened or nobody was listening. And yet, because they started, because they were the pioneers and today we have a multitude of FM stations. They bring fine music, not all rock 'n roll; that comes mostly on AM. You get some high-class cultural music over FM, and that is what this is all about.

I realize the Senator can argue well, and does argue well, that it is adding somewhat to the cost. But that $7 extra when that radio is put into the automobile. I think, is worthwhile because not only do we enhance the trade, we accommodate the public to a greater degree and, in the long run, I think the cost is worth the benefit, and the benefit is worth the cost.

Mr. HART. Mr. President, will the Senator yield me another 2 minutes?

Mr. COOK. Mr. President, how much time have I?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. COOK. I yield 2 minutes to the Senator from Michigan. I have 5 minutes left.

Mr. HART. One minute.

I am not suggesting, nor did the Senator from Idaho suggest, that the survival of the free world hinges on this vote.

Mr. PASTORE. Of course not.

Mr. HART. But I do suggest that all of us should understand the implications in this relatively modest proposal, the title of which, incidentally, is to require that this be done. I do not know whether there is any problem with the Senator's title——

Mr. PASTORE. Oh, no.

Mr. HART. But the title appears to require that this be done, not just turn the question over to the FCC. In every judgment that we make which intrudes on an individual's freedom, we should have some cost-benefit justification; and in my book neither public safety nor the improvement of the economic status of those who want to make money out of FM stations or sell more symphony records justifies what we are doing.

I would also hope that I might be given unanimous consent to have printed in the RECORD some questions and answers that my own office staff developed on the subject.

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

QUESTIONS AND ANSWERS ON THE RADIO ALL-CHANNEL BILL

Q.: Several years ago, we voted for requiring all TVs to have both VHF and UHF capability. How can one distinguish the requirement that all radios have AM and FM capability?

A.: The range of selection for viewers on the VHF system is very limited—three to five stations maximum in most communities. The range of selection on the AM band of radios is three to five times as great. Therefore, the need for government intervention to increase selectivity and reduce monopolistic tendencies is much greater in the UHF situation.

Second, the entry costs for new TV sta-

tions are much higher than for radio stations. The TV industry could argue, in the UHF case, that they needed a guaranteed minimum market in order to get started. The FM stations have far lower entry costs, as the large number of FM stations shows, and the industry, while not as profitable as AM, is alive and growing.

Third, a TV is a high ticket item. Few consumers, were willing to pay the additional cost required for UHF reception, especially when there were few programs available. The radio is a relatively low ticket item and the additional cost of adding FM, while large, has not deterred a large market from developing. In contrast, to the UHF situation, there is already a wide selection of FM stations available.

Q.: If, as the FM stations have stated, the additional cost of including the FM band is only $6, why the fuss?

A.: The $6 figure is soft, to say the least. A leading manufacturer of AM-FM radios for cars told the Antitrust Subcommittee that the cost differential between AM and AM-FM radios is $15–$20. Ford Motor officials estimate the additional cost per car at $55. In 1973, 28% of new cars with radios had the FM band; to require the additional 72% of car radios to have the FM band would cost consumers approximately $400 million in 1975, assuming the same number of cars sold. $400 million is a lot of money to charge consumers for something many do not want.

MAKE FM VIABLE

Q. Will the Radio All-Channel Bill stimulate the FM radio industry enough to make the FM band competitive with AM and therefore economically viable?

A. The economic problems of the FM radio industry come from a variety of reasons including its relatively shorter range than AM, the smaller number of FM receivers, and the nature of the programming. All of these add up to small audiences.

Increasing the number of FM receivers would help in one area to make the industry economically stronger but if most of the new FM radios are beyond your station's range, or if the new FM radio owners just won't listen to your programs, then your station will still fail.

It is in the public interest to have educational programs, classical music, and public interest broadcasts over the FM airwaves, but this may not be the way to stimulate the industry. Direct economic subsidy to public radio, increased public interest programs on present stations (both AM and FM) or some other stimulant may increase the audience of the industry much more effectively, without sticking the Federal Government into the industry in this way.

Q. Will the Radio All-Channel Bill serve the public interest by providing more FM receivers, thereby increasing the potential listenership for public interest, and educational programming?

A. Yes, there can be no doubt that an increase in the number of FM receivers in use will increase the potential FM listenership. It will also make the market limits larger, stimulating advertising to support not only the present public interest programs but perhaps stimulate new entries into the FM public interest market, providing more selection in public interest programs.

However, the ultimate factor in increasing FM public interest listenership comes not from more FM radios, but from listeners who are entertained enough by the program content to tune in. Access now to FM receivers is economically competitive with AM, and yet FM stations, especially in the public interest field, do not find a large enough listener market to attract advertisers.

More FM receivers, and more public interest programs are a socially desirable goal, but those two factors must be brought together by something Congress cannot provide: audience appeal.

Q. Will the Radio All-Channel Bill have a positive effect on competition?

A. To properly answer this, the question must be divided into two parts; first, competition among radio manufacturers at the time of purchase of the radio and second, competition between radio stations, both AM and FM, for the radio listener.

The radio manufacturing industry is not highly concentrated, and at the present time there is wide price, quality, and option competition among radio manufacturers, including the option of AM only, AM/FM, and FM only for the radio purchaser. By requiring only AM/FM radios to be sold, you decrease the option competition (as well as severely limiting the freedom of choice to the consumer) and you do not increase the number of competitors, nor price competition (which may in fact decrease), nor quality competition. Therefore, this would have a small anti-competitive impact on the radio purchase market.

Proponents of the bill, argue that the more FM receivers available, the more FM listeners there will be, which in turn will stimulate competition among FM stations for these new listeners and encourage market entrance by new FM licensees. That this has some pro-competitive effect cannot be denied. However, the new FM receivers only create potential listeners who must be attracted to the stations to increase its market. The potential gain is great; the actual gain should not be overestimated and will probably continue to be a small share of the total radio listener market which listens to and enjoys the educational, public interest programs. Too rapid growth in this area may even dilute the present weak financial base of many FM stations, resulting in the anti-competitive effect of their financial demise.

Mr. COOK. Mr. President, I yield 1 minute to the Senator from New York.

Mr. BUCKLEY. I also oppose the bill.

Mr. President, S. 585, a bill with the innocent title of All-Channel Radio Receivers is one of the most blatant examples of the intrusion of Big Brother government into the free choice of ordinary citizens. This bill would prohibit an American citizen from purchasing a radio receiver costing more than $15 that is capable of receiving only AM signals or only FM signals. It apparently does not matter to the individuals who propose this legislation that an individual citizen may wish to use his own judgment in the matter as to whether or not he wishes to purchase an all-FM or all-AM radio receiver. Rather, they would compel him to conform to the whim of some faceless statute which would arbitrarily rob citizens of their freedom of choice.

There is simply no justification for this blatantly anticonsumer legislation. In many areas of the country, FM programing is extremely limited and frequently difficult to receive at long distances. In other areas of the country, especially urban areas, FM programing is of high quality and substantial choice is available. There is no reason why the Federal Government should seek to impose an arbitrary preference for receivers capable of receiving both AM and FM signals.

This bill should be defeated. It is, in fact, a wonder to me that it could ever have been seriously proposed by my congressional colleagues.

Mr. COOK. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator's time remaining is 3 minutes.

Mr. COOK. Mr. President, I merely wish to conclude by saying I could not agree more with the Senator from Michigan and this is not an earth-shaking decision. But I would say that I think all of us have to remember that when the Senate decided to offer to the American public and see that the American public had a right to have all-channel television, and we went to UHF and VHF receivers and saw to it that they all had to be that way, prior to that time all one had to do was to have a UHF station come into his town when he had a VHF television, and then he really did spend the money because his kids wanted that extra channel, and they wanted that extra programing, and they said, "Gee, we cannot see that one; we do not have the opportunity to see that one." So that converter really did cost him money, and there were people in the business then who sold those converters, those who had blazed the trail, so that one could get his television converted so that he could pick up the UHF stations, and we decided to resolve that problem so it did not cost that kind of money, and so that he did not have to pay that tremendous sum of money. In the end, it was truly the consumer who benefited when the Congress, in its wisdom, decided to make available to the public the necessity of the manufacturer to produce an all-channel television receiver.

What we are saying here is that the Government of the United States has granted licenses throughout the United States on the AM and FM bands. They have become a way of life in the United States in regard to the receivability of signals to the American citizen.

Therefore, if that is the case, not that he does not know the differences—in many instances he may—but the fact is that for his own safety, for his own protection in the event we have to utilize those facilities, and because of the fact that they are duly licensed frequency channels in the American radio system today, we would like to see to it that both will be made available.

We have heard all this about how much more it would cost and how much more the consumer will have to pay out.

I happen to believe that is not the case. I happen to believe they will be able to produce them at a very reasonable cost, and that the American people will be delighted.

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired. The Senator from Utah has 1 minute.

Mr. MOSS. Mr. President, I am pleased that so many Senators have engaged in this debate today; apparently we have had many converts to consumerism. I have been trying to protect the consumer in this body for a long time.

I am convinced that this is a consumer's bill. The Federal Government, by its licensing procedure, has provided for an FM band and an AM band on which citizens may receive signals. The pur-

pose of this measure is to make sure that those who buy receivers will be able to get the signals on both bands, for all the reasons we have set forth.

This bill will promote diversity and creativity in the broadcast industry. The educational and noncommercial market will come of age. That is the purpose of the bill, and I hope it will pass overwhelmingly.

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

Mr. McCLURE. Mr. President, I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

After line 18, page 2, add a new section as follows:

SEC. 3. Any person who subscribes to one newspaper must subscribe to at least two.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries and in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCLURE. I ask unanimous consent that the name of the junior Senator from New York (Mr. BUCKLEY) be added as a cosponsor of my amendment.

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

Mr. McCLURE. Mr. President, I think the sponsors of the legislation will note that this amendment is only designed to gain a point with respect to placing in perspective the argument made by the proponents that the purpose of the bill is only to provide an opportunity for more people to have more information. I suggest that if that is a good argument, my amendment is a good amendment. Certainly if one newspaper is good, two newspapers would be twice as good. If AM is good and FM is good, and we can mandate the people to have both, why not mandate that they have both newspapers?

Mr. MOSS. Mr. President, I move to lay the amendment of the Senator from Idaho on the table.

The PRESIDING OFFICER. A motion to lay on the table is not in order until the time of the Senator has been yielded back.

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

Mr. McCLURE. I yield to the Senator from Michigan.

Mr. HART. Might not the point be made even more clearly if the Senator modified his amendment to provide that anyone who buys a newspaper should be required to buy—and then enumerate the learned journals whose economic survival is questionable, but whose wisdom, in the judgment of many, is enormous?

Is that not more in line with what the Senator is trying to do?

Mr. McCLURE. I think the Senator is correct. I think his point is valid.

I yield to the Senator from New York.

Mr. BUCKLEY. Mr. President, I was going to make the exact point made by the Senator from Michigan.

We are told this legislation is necessary for two reasons: First, because there are so many FM stations that are struggling to survive; and, second, that isolated communities cannot themselves survive in times of emergency without access to the traditional forms of communications.

I find the parallel exact in every respect, and urge it upon our colleagues.

Mr. McCLURE. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. DOLE. Mr. President, the bill before us today is a perfect example of what so many people find wrong with the Federal Government.

It is an unwarranted, unnecessary, and highly questionable interference with the individual's right of free choice. It is a glaring and disturbing example of the big brother mentality at work in Congress. And I oppose it vigorously.

I find absolutely no justification for the Government to tell people that they must buy radios that recieve both AM and FM signals. What possible concern is it to the Government in Washington what kind of radios the American people buy? Certainly, there is no constitutional basis for such meddling. And even more importantly, there is no justification in this period of great concern for increases in the cost of living to force the consumer to pay for some extra, added and more expensive gadget when he purchases a basic item such as a radio.

This bill demonstrates the same sort of heavy-handed Government-knows-best nonsense that has forced the American to endure trapeze- and buzzer-encumbered automobiles, overbearing and punitive OSHA regulations, senseless and disruptive forced busing of schoolchildren away from their neighborhood schools, and mountains of redtape, triplicate forms, and bureaucratic tyranny.

It is a sad commentary on Congress that such a piece of legislation should be dignified by consideration on the Senate floor. I would hope and urge that it be soundly defeated as a signal to the American public that these assaults on their basic, most fundamental freedom—the freedom of choice—will not be tolerated further.

Mr. MATHIAS. Mr. President, I have spoken before about the need to reinvigorate the sense of community in America. I have said that in many cases, the advance of technology has worked to destroy the sense of community which is central to our sense of ourselves as a nation.

In particular, the mass media, all too often, contribute to the erosion of neighborhood ties by emphasizing the uniformity of people in advertising methods as well as in editorial or program content. The search for larger numbers and common denominators is a constant force for the diminution of individuality. However, this need not be the case, as is shown by the example of one major radio station in Baltimore, Md.

WBAL radio, with a signal which can be heard from Bermuda to Canada, has not grown too big to forget the people who live in its own back yard. The station has gone an extra step to meet the needs of its neighbors in the Baltimore area, even when the handful of people being helped was far too small to count in the audience ratings so important to advertisers.

WBAL radio's "Call For Action" project, the only one in the State, is one example. Over 4 years, volunteers have handled over 27,000 requests for help or advice. This project underwritten by the station itself, goes beyond the use of the normal broadcasting facilities available to all stations. A similar example of extra effort is in the summer camp program for needy children. This has expanded to include 10 innercity churches who formed a corporation at the station's request to lease a camping site. The program, funded through contributions by the station and by its listeners, sent 150 children to camp in its first year, 1969, and sent nearly 800 children last summer.

In addition to continuing efforts, WBAL radio has been highly effective in meeting special needs on a spot basis. Some examples:

A trip for 200 children, many of whom had never been out of the inner-city, to a dairy farm;

An appeal for wheel chairs for sick and elderly who could not afford them, resulting in donations of over 30 chairs;

When the Maryland League for Crippled Children needed a bus to transport the children, WBAL radio asked listeners to send in trading stamps, and in 4 weeks had received enough stamps for two buses;

An effort to get furniture and bedding for a facility serving runaway teenagers resulted in donations of everything from sheets and furniture to pots and pans.

The list of successes also includes such items as Christmas gifts for needy children, crutches for hospital patients, musical instruments for children in Baltimore's Cherry Hill section, and sports equipment donated through local fire houses for use in city recreational programs.

Al Burk, vice president and general manager of the station, admits to an immediate, selfish interest in the well-being of his community, which cannot help but pay off in good will for WBAL radio. I suspect, however, that this is not the whole story. When one considers the man hours which go into any such person-to-person effort similar to those I have listed and compares that with the minimal return it must bring to the station, the effort does not "pay off" in a strictly business sense.

They do pay off, however, and not only to those who are directly benefitted. The entire community needs those who have both the ability and the will to take time out to pay attention to the unmet needs of the few. The work of Al Burk, Urban Affairs Director Jesse Webster, the volunteers who contribute to their pro-

grams and the public and private agencies who share their goals all help to repair the worn spots in the fabric of the Baltimore community. Their work, and the work of many public-spirited citizens, is our most valuable safeguard against the loss of community. It is the glue which joins our society, and they are preserving that society in the finest traditions of civil leadership.

Mr. BAYH. Mr. President, I rise in support of S. 585, the all channel radio receiver bill, as reported from the Committee on Commerce. The requirement that all radios costing over $15 be equipped to receive both AM and FM stations is reasonable and necessary to provide maximum efficient radio service to the American people.

Over the past 13 years the number of FM stations in this country has increased dramatically—from 829 licensed stations in 1961 to 3,174 FM stations on the air today. However, a significant portion of the American public does not own radios that are equipped to receive FM stations and the majority of FM stations operate at a financial loss as a consequence.

The citizens who do not have access to FM stations in their home or car are cut off from listening to 42 percent of the radio stations on the air. Many of these stations are of a specialized nature, providing educational programs and classical music, for which the high fidelity and interference-free characteristics of FM are especially well suited. Many of these stations are operated by colleges and universities and offer a unique variety of public service programs.

While this legislation does involve increased Federal guidelines and regulations in the communications field, it seems necessary in order to reach the full potential of FM broadcasting and thus serve the public interests. In addition, Congress set a precedent 10 years ago by adopting legislation to require television sets to be built to receive both UHF and VHF signals. That legislation was passed for many of the same reasons we should pass the all channel radio receiver bill—namely, to increase the public's access and choice of available programing.

This legislation, S. 585, will offer the citizens of Indiana and the Nation an opportunity to choose and select from the programing offered by AM and FM stations with the purchase of a single radio. In doing so it will further the important goal of providing our citizenry with the greatest possible access to news, public interest broadcasting, and varied types of radio programing. I urge its adoption.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this measure, the Senate proceed to the consideration of S. 1486 rather than S. 1485, and that S. 1485 be placed on the calendar under subjects on the table.

The PRESIDING OFFICER. Is there objection?

Mr. BUCKLEY. Mr. President, reserving the right to object, what are those bills?

Mr. ROBERT C. BYRD. They are on the calendar, Nos. 831 and 832.

Mr. BUCKLEY. I thank the Senator very much. I withdraw my reservation.

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

The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BROCK (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Tennessee (Mr. BAKER). If he were present and voting he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. HELMS (when his name was called). Inasmuch as I am a stockholder and I am a director of a broadcast station, to avoid possible conflict of interest I answer "Present."

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. LONG), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Maine (Mr. HATHAWAY), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I also announce that the Senator from Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

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

The result was announced—yeas 44, nays 42, as follows:

[No. 256 Leg.]

YEAS—44

Abourezk	Hollings	Pastore
Aiken	Huddleston	Pearson
Allen	Hughes	Pell
Bayh	Humphrey	Randolph
Beall	Inouye	Ribicoff
Biden	Jackson	Schweiker
Brooke	Javits	Scott, Hugh
Byrd, Robert C.	Magnuson	Sparkman
Case	Mansfield	Stafford
Clark	Mathias	Stevens
Cook	Metzenbaum	Stevenson
Ervin	Montoya	Talmadge
Gravel	Moss	Tunney
Gurney	Nunn	Williams
Hartke	Packwood	

NAYS—42

Bartlett	Dominick	McGovern
Bennett	Eagleton	McIntyre
Bentsen	Eastland	Mondale
Bible	Fannin	Nelson
Buckley	Fong	Percy
Burdick	Griffin	Proxmire
Byrd, Harry F., Jr.	Hansen	Roth
Cannon	Hart	Scott, William L.
Chiles	Haskell	Stennis
Cotton	Hatfield	Thurmond
Cranston	Hruska	Tower
Curtis	Johnston	Weicker
Dole	Kennedy	Young
Domenici	McClellan	
	McClure	

ANSWERED "PRESENT"—2

Helms Taft

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Brock

NOT VOTING—11

Baker	Goldwater	Metcalf
Bellmon	Hathaway	Muskie
Church	Long	Symington
Fulbright	McGee	

So the bill (S. 585) was passed, as follows:

S. 585

An act to amend section 303 of the Communications Act of 1934 to require that radios be capable of receiving both amplitude moduled (AM) and frequency modulated (FM) broadcasts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303 of the Communications Act of 1934 is amended by adding the following new paragraph at the end:

"(t) Have authority to require that apparatus designed to receive any amplitude modulated (AM) or frequency modulated (FM) broadcast be capable of adequately receiving all frequencies allocated by the Commission for AM and FM broadcasting when such apparatus is shipped in interstate commerce, or is imported from any foreign country into the United States, for sale or resale to the public: *Provided, however,* That this authority shall not extend to apparatus designed to receive only amplitude modulated (AM) or frequency modulated (FM) broadcasts and retailing for less than $15."

SEC. 2. Section 330 is amended—

(1) by striking out "paragraph (s)" in subsection (a) and inserting in lieu thereof "paragraphs (s) and (t)";

(2) by striking out "that paragraph" in subsection (a) and inserting in lieu thereof "those paragraphs";

(3) by striking out "section 303(s)" in subsection (b) and inserting in lieu thereof "sections 303(s) and 303(t)"; and

(4) by striking out "TELEVISION" in the section heading and inserting in lieu thereof "BROADCAST".

Mr. MOSS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

EXPORT EXPANSION ACT OF 1973

The PRESIDING OFFICER (Mr. BARTLETT). Under the previous order, the Senate will now proceed to the consideration of S. 1486, calendar No. 832, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1486) to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments.

OBSERVANCE OF A PERIOD TO HONOR AMERICA

Mr. HUGH SCOTT. Mr. President, I send a resolution to the desk and ask unanimous consent for its immediate consideration.

I ask unanimous consent that the time not be charged against either side on the pending bill.

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

The resolution will be stated.

The assistant legislative clerk read as follows:

S. CON. RES. 90

Whereas it is the sense of Congress that 1974 be recorded as the year that all freedom loving Americans demonstrate a reaffirmation of their patriotism and love and respect for these United States of America upon the occasion of the 198th anniversary of its founding; and

Whereas the Congress is aware that while many of the problems confronting America may appear to be monumental, they are problems that are surmountable through the exercise of the American spirit and will; and

Whereas the rekindling of that spirit and will can begin by honoring America: Now, therefore, be it *Resolved in the Senate, (the House of Representatives concurring)*, That Congress declares the 21 days from Flag Day, June 14, 1974, to Independence Day, July 4, 1974, as a period to honor America, and let there be public gatherings and activities at which the people of the United States can celebrate and honor their country in appropriate manner.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HUGH SCOTT. Mr. President, first, I ask unanimous consent that time on this resolution be limited to 5 minutes.

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

Mr. HUGH SCOTT. Mr. President, I am pleased to join the distinguished majority leader the Senator from Montana (Mr. MANSFIELD) in asking for the immediate consideration of our concurrent resolution to declare the 21 days from Flag Day, June 14, 1974, to Independence Day, July 4, 1974, as a period to honor America. An identical proposal is also being considered in the House of Representatives today.

This coming Independence Day will mark the 198th year since the signing of our Declaration of Independence. In those nearly 200 years, the Nation has suffered battle, hardship, and often despair. But the Declaration and our Constitution remain intact. As Americans, we still pledge to them our lives, our fortunes, and our sacred honor.

It is fully proper that each American remind himself that ours is a Nation worthy of honor, and it seems especially appropriate that the period between Flag Day and Independence Day be designated for this purpose.

We ask that our resolution be immediately agreed to.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

CONGRATULATIONS TO SENATOR STENNIS

Mr. HUGH SCOTT. Mr. President, I was not able to be on the floor of the Senate the other day to pay tribute to the distinguished chairman of the Armed Services Committee for exhibiting his usual skill and competence in managing the defense procurement bill. We were all pleased to note the stamina displayed by our good friend, the Senator from Mississippi (Mr. STENNIS), in meeting the taxing demands of handling major legislation on the floor of the Senate. I congratulate him on his outstanding effort.

I also congratulate the distinguished Senator from South Carolina (Mr. THURMOND), the manager of the bill on this side of the aisle. It was a very difficult bill. It was handled with discretion, with dispatch, and with a great deal of patience, and a good result was achieved.

EXPORT EXPANSION ACT OF 1973

The Senate continued with the consideration of the bill (S. 1486) to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes.

Mr. SPARKMAN. Mr. President, in considering S. 1486, the Foreign Relations Committee drew a distinction between those provisions involving the State Department and overseas activities, upon which the committee chose to act, and those of an essentially domestic character, which the committee chose to report back without recommendation. Although, in the broadest sense, all export promotion activities have an international dimension, the committee has generally not addressed itself to export programs conducted in the continental United States, unless such programs are in possible conflict with international agreements to which the United States is a party.

The provisions of S. 1486 to which the committee directed its attention were sections 6 and 14 of the bill as received by the committee. Section 6 provided for the establishment abroad of as many as five Regional Export Assistance Centers, to be operated by the Secretary of Commerce as "storage, distribution, and service headquarters for small, medium-sized, new-to-export, and new-to-market American exporters." Section 14 required that, henceforth, in connection with any proposed Federal action which "could significantly affect international economic relations, the balance of payments, or the balance of trade of the United States," there be prepared an international economic impact assessment statement, to include detailed analysis and recommendations from all interested agencies.

In regard to both of the sections, the committee was sympathetic with the implied general goal, but in both cases the committee had very serious doubts about the efficacy of the specific provisions.

Concerning the proposed Regional Export Assistance Centers (REAC's), the committee noted that foreign governments might well raise serious objections to REAC's on the ground that both the services they would provide and the exports they would facilitate would be in unfair competition with the domestic firms of those countries. Equally as important, with regard to the administration of such a program, the operation of REAC's by the Secretary of Commerce would be inconsistent wtih the long-standing principle, embodied in repeated Presidential directives, that all U.S. Government activities in a foreign country, save those involving U.S. forces, come under the direct jurisdiction of the American Ambassador. In this connection, section 6(b)(2) was particularly objectionable in that it would vest in the Secretary of Commerce the authority to assign Foreign Service officers otherwise under the jurisdiction of the Secretary of State.

In considering the proposed system for the preparation of international economic impact assessment statements, a requirement which would undoubtedly entail extensive activity by the State Department as well as other agencies, the committee questioned the wisdom of imposing such a further burden upon the executive branch. Clearly it is desirable that the administration's policymaking process involve contributions from all interested agencies and that the process occur, as much as possible, in full public view. But in the committee's understanding, the President's Council on International Economic Policy, created in 1972, already provides an effective mechanism for the collection, coordination, and publication of agency views.

With these serious doubts about both the sections which it particularly considered, the committee chose to amend the bill by deleting those sections. The remaining sections—those dealing with domestic export promotion activities—are contained in the bill which the committee has reported back to the Senate without recommendation.

Finally, Mr. President, I should note that the administration also opposes the sections deleted by the committee, as well as several other sections of the bill. This is shown in a letter from the Deputy Secretary of State to the chairman of the Foreign Relations Committee, and I ask unanimous consent that it be printed in the RECORD.

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

DEPARTMENT OF STATE,
Washington, May 14, 1974.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On May 10 I wrote you to express the Department of State's opposition to S. 1485, a bill that would create 15 overseas export representatives. These positions would be manned by personnel drawn from the Department of Commerce and would inspect and instruct economic/commercial officers who are assigned overseas.

I wish in this letter to reiterate that position, speaking now for the Administration as a whole. I should note in particular that I have discused this with Secretary Dent, and that the Department of Commerce is also opposed to this legislation.

When Secretary Dent and I talked about S. 1485, we also discussed S. 1486. I understand that Commerce would favor passage of Section 15, which would expand the scope of the Webb-Pomerene Act, but that it would not favor enactment of the other provisions of S. 1486 in their present form despite finding merit in the objectives of some of the other provisions.

The Office of Management and Budget has asked us to note that there has been inadequate time for it to secure the concurrence of other government agencies which are interested in S. 1486 and for OMB to determine if the bill is consistent with the Administration's program.

Sincerely,

KENNETH RUSH,
Acting Secretary.

Mr. BROCK. Mr. President, I ask unanimous consent that during the consideration of S. 1486, J. V. Crochett and John Backe of my staff may be granted the privilege of the floor.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that during the consideration of this matter the committee staff be accorded the privilege of the floor.

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

Mr. INOUYE. Mr. President, S. 1486 was reported on April 11, 1974, with amendments, and on April 23, 1974, it was considered and passed. On April 24, passage was vacated, and it was referred to the Committee on Foreign Relations. On May 20 of this year it was reported to the Senate by the Senator from Alabama (Mr. SPARKMAN) with amendments.

As manager of the Commerce Committee bill, I have listened to the arguments presented by the distinguished Senator from Alabama, and I find them most persuasive. I have no objection to the bill as amended.

Therefore, the Committee on Commerce is prepared to accept the two amendments submitted by the Committee on Foreign Relations.

Mr. President, on April 23 we had a most comprehensive discussion of the measure before us. It would be repetitive to review what we said on that date. However, at this point I would like to submit for the consideration of the Senate an amendment which I have at the desk. I call up the amendment.

The PRESIDING OFFICER. The amendment is not in order until the amendments of the Committee on Foreign Relations are disposed of.

Mr. SPARKMAN. Mr. President, I ask that the amendments of the Committee on Foreign Relations be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. INOUYE. Mr. President, may I now take up my amendment?

The PRESIDING OFFICER. The Senator's amendment is in order.

Mr. INOUYE. I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 57, line 13, insert the following: at the end of line 13:

"The provisions of the preceding proviso shall not apply to any association operating under this Act prior to the date of enactment of the Omnibus Export Expansion Act, or to any person which was a member of such association before that date, except with respect to participation by that person in any other association beginning after that date."

On page 59, line 1, delete "June 30, 1974," and insert in lieu thereof "June 30, 1975,".

On page 59, line 11, delete "June 30, 1975," and insert in lieu thereof "June 30, 1976,".

On page 59, line 21, delete "June 30, 1976," and insert in lieu thereof "June 30, 1977,".

Mr. INOUYE. Mr. President, this amendment is actually technical in nature. By some inadvertent error, this section was left out of the printed bill as reported by Commerce Committee.

Furthermore, there are three other minor amendments changing the authorization dates. The original bill referred to June 30, 1974. That has been changed to 1975, and the 1975–76 has been changed to 1976–77, accordingly.

Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SPARKMAN. I yield back my time on the amendment.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I send to the desk a technical amendment. It is possible that this duplicates the amendment of the Senator from Hawaii.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In the printing of S. 1486 as reported by the Foreign Relations Committee, there was a typographical error which can be corrected if the Senate will accept a technical amendment. The error occurs on page 23 of the bill, line 25, where a deletion bracket has mistakenly been printed.

Mr. SPARKMAN. Mr. President, I yield back my time on the amendment.

Mr. INOUYE. I yield back my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

The amendment is agreed to, and the correction will be made.

The PRESIDING OFFICER. The question is on agreeing to the Commerce Committee substitute, as amended.

The Commerce Committee substitute, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

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

Mr. GRIFFIN. Mr. President, are further amendments in order?

The PRESIDING OFFICER. Further amendments are no longer in order. Further amendments are not in order.

Mr. GRIFFIN. Mr. President, I make the following request to protect a Senator who is not in the Chamber. I did not realize the parliamentary situation. I am very much in favor of the bill. I serve on both the Committee on Commerce and the Committee on Foreign Relations. But I think we should rescind the adoption of the substitute for the time being so that amendments will be in order.

I ask unanimous consent that the action of the Senate in that regard be rescinded. Perhaps the Parliamentarian can advise us as to the proper form.

I ask unanimous consent that the bill be open to further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. BROCK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 24, line 8, strike out "section 7" and insert in lieu thereof "section 9".

On page 25, line 5, strike out "section 10" and insert in lieu thereof "section 12".

On page 34, between lines 14 and 15, insert the following:

"INTERNATIONAL TRADE SPECIALISTS

"SEC. 6. (a) (1) There is established within the Department of Commerce and in its field offices an international trade specialist program. The Secretary shall recruit, train, and assign such personnel to the program as may be necessary to implement the purposes of the Act, except that the number of such personnel shall not exceed three in each field office, and shall not exceed one hundred for the entire program.

"(2) Each international trade specialist appointed under this section shall have had at least five years of executive level experience in private industry directly related to exporting products from the United States. Any individual who is or who has been a career employee of the United States shall be ineligible for an appointment under this section for a period of five years following the date of his separation from employment by the United States.

"(3) Appointments as international trade specialists shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(4) An individual appointed as an international trade specialist may occupy such position for a period of (or periods aggregating) not more than five years, and shall be compensated at rates established by the Secretary, but not to exceed $25,000 per annum.

"(b) The function of international trade

specialists will be to augment existing field office staffs. International trade specialists will be engaged exclusively in the promotion of export expansion activities through the export expansion programs administered by the Secretary.

"(c) The Secretary shall conduct an evaluation of the program carried out under this section and transmit a report to the Congress not later than three years after the date of enactment of this Act. Such report shall include information on the recruitment, training, and placement of personnel, the export expansion programs under which such personnel operated, data on increased exports in terms of dollar amounts and quantity of shipments, and recommendations with respect to the program's continuation.

"EXPORT MEASUREMENT

"SEC. 7. (a) To measure adequately the progress of the export expansion programs carried out by the Secretary, more accurate and definitive measurements than those already in use must be established and implemented.

"(b) The Secretary shall establish and implement a procedure within the Bureau of the Census of the Department of Commerce to insure that each shipper's export declaration contains the address (including the State) of the exporter. Total exports for each State, by country of destination, and by schedule B commodity groups, will be compiled in a monthly report for each of the field office areas of the Department of Commerce.

"(c) The permanent implementation of the procedure described in subsection (b) and the availability of funds authorized under subsection (e) are contingent on the implementation and conduct of a pilot project encompassing the exports of not less than eight States for not less than six consecutive months. For the purpose of this subsection, there are authorized to be appropriated not to exceed $175,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976.

"(d) An evaluation of the measurement program established under this section shall be carried out by the Office of Field Operations, Department of Commerce, in cooperation with its field offices. Not later than eighteen months after the date of enactment of this Act, the Secretary shall transmit a report on such evaluation to the Congress including therein information on the implementation of such procedures, an analysis of results, and recommendations as to improvements, or discontinuation of the program."

On page 34, line 16, strike out "SEC. 6." and insert in lieu thereof "SEC. 8.".

On page 37, line 14, strike out "SEC. 7." and insert in lieu thereof "SEC. 9.".

On page 39, line 20, strike out "SEC. 8." and insert in lieu thereof "SEC. 10.".

On page 40, line 20, strike out "11 and 12" and insert in lieu thereof "13 and 14".

On page 42, line 11, strike out "12" and insert in lieu thereof "14".

On page 42, line 19, strike out "SEC. 9." and insert in lieu thereof "SEC. 11.".

On page 44, line 17, strike out "SEC. 10." and insert in lieu thereof "SEC. 12.".

On page 48, line 4, strike out "SEC. 11." and insert in lieu thereof "SEC. 13.".

On page 48, line 7, strike out "section 10" and insert in lieu thereof "section 12".

On page 49, line 5, strike out "section 10" and insert in lieu thereof "section 12".

On page 50, line 1, strike out "section 11 and 12" and insert in lieu thereof "sections 13 and 14".

On page 51, line 5, strike out "SEC. 12." and insert in lieu thereof "SEC. 14.".

On page 52, line 2, strike out "section 11" and insert in lieu thereof "section 13".

Mr. BROCK. Mr. President, I offer this amendment on behalf of myself and Senators COOK, DOLE, BENNETT, TOWER, and MCGOVERN.

I may say at the outset that I appreciate the efforts of the Senator from Hawaii (Mr. INOUYE) and the leadership he has given to this particular legislation. I support the bill. I do think it is a valuable contribution to our trade export program.

The effort I make here with this particular amendment is not to change in any way the efforts made by the Senator from Hawaii or his committee, but simply to add to the authority of the Secretary two new authorities to enhance his ability to serve the American export community and provide greater impetus to our export program.

The first suggestion I make in this amendment is to create within the Department of Commerce what I call an international trade specialist program. This program would be limited to 3 of these trade specialist field offices and to 100 overall throughout the entire country.

The specialists appointed shall have had at least 5 years of executive level experience in private industry directly related to exportation. Any individual who is or has been a career employee of the United States would be ineligible for appointment for a period of 5 years following the date of separation from employment by the United States.

Appointments would be made in a very simple effort to provide more expertise to our field offices simply because today they are so burdened with a massive job. They are doing a good job, in my opinion, but their effectiveness is sharply reduced because of a shortage of expert, experienced personnel and by the unavailability of up-to-date financial data; and that relates to the second part of the amendment I have offered, which is incorporated in section 7.

In this particular section the amendment attempts to deal with the inadequacy of our information to date. Export data runs as much as 2 years after the fact, and it just is not possible for either the Congress or the Secretary of Commerce or the American business community to rationally plan a sales program without more up-to-date information.

What I have suggested is that the Secretary shall establish and implement a procedure within the Bureau of the Census of the Department of Commerce to insure that each shipper's export declaration contains the address of the exporter. Total exports for each State, by country of destination, and by schedule B commodity groups, will be compiled in a monthly report for each of the field office areas of the Department of Commerce.

We would create a pilot project in not less than 8 States for not less than 6 consecutive months to see if this is in fact a viable procedure.

We have in the amendment an authorization of $175,000 for each of the fiscal years of 1975 and 1976, after which an evaluation of the measurement program established under this section shall be carried out by the Office of Field Operations in the Department of Commerce, in cooperation with its field offices.

We then require that, not later than 18 months after the date of enactment of this act, the Secretary shall transmit a report on such evaluation to the Congress, including therein information on the implementation of such procedures, an analysis of results, and recommendations as to improvements, or discontinuation of the program.

In sum, I am asking for two things: increasing the availability of expert and professional talent for our field offices and increased access to information in that field to the department, the business community, and the Congress of the United States, on a monthly report basis, so that decisions are based not on information 2 years after the fact, but on current information.

Mr. SPARKMAN. Mr. President, may I ask the Senator just this one question?

The PRESIDING OFFICER. The Senator from Alabama (Mr. SPARKMAN).

Mr. SPARKMAN. Would the effect of these two amendments be solely with reference to Commerce Department people, and not involve Foreign Service people?

Mr. BROCK. That is correct.

Mr. SPARKMAN. The Senator knows that is largely the effect of the amendments we put in the bill, because jurisdiction over Foreign Service would not be under the Commerce Department.

Mr. BROCK. No Foreign Service personnel would be allowed to play a role under this particular amendment.

Mr. SPARKMAN. I was talking about Foreign Service.

Mr. BROCK. My proposal would not allow any Foreign Service people to be trade specialists, so designated, unless they had been out of Federal Government employment for 5 years.

Mr. SPARKMAN. Mr. President, I want to yield to the Senator from Hawaii (Mr. INOUYE), whose bill this really is, out of the Commerce Committee. The Senator from Hawaii has given us complete cooperation all the way through, and I want to express my appreciation for the manner in which he has cooperated.

Mr. INOUYE. I thank the Senator.

Mr. SPARKMAN. I yield the Senator such time as he may require, within my limitation.

Mr. INOUYE. Mr. President, as the manager of the bill in the Commerce Committee, I have studied this amendment, and I find it is one that is very worthy of serious and favorable consideration.

I think the important fact to note at this time is that only about 4 percent of our gross national product is related to exports. Less than 4 percent of the businesses of the Nation is involved in foreign trade. If one is interested in getting into this business, he will find himself in a maze of agencies. Almost 80 agencies are involved in foreign trade policy in one way or another.

Second, businessmen interested in foreign trade might be inundated with paperwork. Finally, a businessman may find that the information he needs is not available.

We hope that, with the passage of the bill and with the Brock amendment, some of the problems we find in the

business community will be overcome. We think they will be.

I hope the Senate will consider the amendment and the bill favorably.

Mr. BROCK. Mr. President, may I express my gratitude to the distinguished Senator from Alabama and, of course, most specifically to the distinguished Senator from Hawaii for his comments.

I think the committee's efforts are directed to the very point that we raise such a small percentage of gross national product from our involvement in export trade, and we tend to ignore the tremendous impact not only on us but the world at large and our relationship to the world, and it is important that we be part and parcel of the world community.

Our dependence is well documented. We simply must trade in order to survive. While it is a fact that only 4 percent of our gross national product is involved in export trade, it amounts to many billions of dollars. What is worse is that this export trade is done by less than 200 firms. We have to get more middle-size and small businesses involved in the business of export.

I think the Department of Commerce is trying desperately to do that, but we need the help encompassed in this legislation.

I appreciate the Senator's support of my amendment, and I urge its adoption.

Mr. President, I am prepared to yield back my time.

Mr. GRIFFIN. Mr. President, I wish to say a few words to indicate my wholehearted support for the amendment offered by the Senator from Tennessee and also for the legislation as it has been amended. I have the privilege of serving on the Foreign Commerce and Tourism Subcommittee of the Committee on Commerce, chaired by the Senator from Hawaii (Mr. INOUYE). I wish to join the Senator from Alabama in commending the Senator from Hawaii for his leadership in bringing this important legislation to the floor.

Michigan as a State has offices in Brussels and in Tokyo for the purpose of promoting exports from the State of Michigan. It should be noted that, in some respects, State activity has been more vigorous than Federal activity in promoting the important national goal of increasing our exports and improving our balance of payments.

Certainly this type of legislation is long overdue. The amendment of the Senator from Tennessee (Mr. BROCK) will strengthen the bill. I urge that it be adopted and that the bill be passed.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. INOUYE. Mr. President, before yielding back my time, I would like the RECORD to show the great contribution of Senator PEARSON. I think it should be noted that his bill, S. 1007, is incorporated in S. 1486. His bill focused directly upon the importance of exports, and provided for the establishment of the Federal Export Agency.

Furthermore, Senator PEARSON's bill provided for the creation of export associations. I think this bill, S. 1007, plus the Brock amendment, have done much to strengthen the whole bill.

I yield back the remainder of my time.

Mr. BROCK. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Tennessee (Mr. BROCK).

The amendment was agreed to.

Mr. PEARSON. Mr. President, I wish to express my support for this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield time.

Mr. PEARSON. I express support for this legislation. As one who serves both on the Committee on Commerce and the Committee on Foreign Relations, I watched this legislation proceed, so may I add my compliments to the distinguished Senator from Hawaii (Mr. INOUYE) for his leadership and for his spirit of compromise and accommodation to the views of both of those committees.

As he so generously recited, this bill does incorporate the provisions of S. 1007 which had as its purpose the implementation of export opportunities for small business and small businessmen.

I think the fact is generally overlooked that of all the export business that is carried on between this Nation and all other foreign nations, it is about 4 percent of the business, and they are the great corporations, the multinational corporations. All the rest compete here with each other and with foreign companies.

So it seems to me that this is an opportunity—it is no guarantee, there is no special provision or aid for companies but it does open the door and it provides an opportunity—for American business to go into new markets with new products and provide, I think, for greater American employment and greater opportunities for American jobs and some improvement, hopefully, in the balance of payments.

So I am very grateful that the committee accepted this proposal. I do think it is going to be a measure, as the distinguished majority leader said a few moments ago, that will open up opportunities, I think, for greater exports in behalf of our businessmen.

I congratulate both the Senator from Alabama (Mr. SPARKMAN) and the Senator from Hawaii (Mr. INOUYE).

Mr. SPARKMAN. Mr. President, I spoke a few moments ago about the fine cooperation of the Senator from Hawaii. As a matter of fact, this bill, as he pointed out a while ago, was passed by the Senate, and I discovered it the next morning when I read the CONGRESSIONAL RECORD. I went to the Senator from Hawaii and asked him if it would be agreeable to have the passage of the bill vacated so that it might be referred to the Foreign Relations Committee. He very kindly consented. He has been most helpful throughout, and I want to pay my respects to him in that regard.

Mr. DOLE. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill insert the following new section:

REIMPOSITION OF MEAT IMPORT QUOTAS

SEC. 16. Notwithstanding the last sentence of subsection (d) of section 2 of the Act of August 22, 1964 (78 Stat. 594; Public Law 88-482), any suspension under such subsection of any proclamation made by the President under subsection (c) of such section is terminated on the date of enactment of this Act.

Mr. DOLE. Mr. President, this morning, at a meeting called by the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), 35 or more Senators expressed their concern about limiting imports of beef. A number of other Senators who have favored this action were unable to be present or were unable to have any staff members there.

I think this concern by Senators on both sides of the aisle reflects the severe conditions existing today in the livestock industry and the importance of limiting imports.

I believe it was made clear, or should have been made clear at the meeting this morning, that when the livestock industry is on the verge of a crisis, then those who consume livestock products, beef, pork—whatever it may be—are also endangered because if the livestock industry should fall into bankruptcy there would be a great scarcity of all these commodities, and, of course, the prices would soar.

So we have seen in the State of Kansas and in every other cattle-producing or hog-producing State—and in industries involving broilers and eggs and almost every other livestock commodity—disastrous results which started back with price controls and were aggravated by the truck strike, and aggravated by government interference. So this amendment would reimpose import quotas—it would suspend the proclamation made by the President, notwithstanding Public Law 88-482 of the 88th Congress, more specifically subsection (d), and the last sentence of that subsection.

Mr. President, I discussed the situation with the distinguished Senator from Hawaii earlier. I do not intend to press the amendment, not because I have any lack of confidence in what might happen in the Senate, but because right now consideration is being given by the administration. Last week, the junior Senator from Kansas and the distinguished junior Senator from Nebraska (Mr. CURTIS) visited with President Nixon. Yesterday a number of Senators visited with Secretary of Agriculture Butz.

I think on Friday of this week a group of Representatives and Senators will visit with Secretary Butz; and on Monday of next week at the White House conference, Members of Congress, producers, retailers, livestock producers, and others will meet with Secretary Butz and Mr. Kenneth Rush, the President's economic adviser, in an effort to find some relief for the distressed livestock industry. So it might not be timely to have a vote on the amendment at this time.

I do believe it is timely to point out again to the administration and to everyone concerned about the health of this very important domestic industry, the real plight that it is in.

At this morning's meeting, a great number of matters were covered. First of all, it was unanimously agreed by those present, as I said, some 30 to 35, perhaps more, that import quotas should be reimposed.

Second, it was agreed that hearings be held, starting next Monday afternoon, in the Subcommittee on Agricultural Credit of the Committee on Agriculture and Forestry; that some credit must be extended to those livestock producers, feeders, and others who are in financial distress.

Third, it was agreed that there should be a study by the Federal Trade Commission or some other appropriate agency to determine whether or not someone has made a windfall profit at the expense of the livestock producers, because, while farm prices have remained fairly low, the lowest in 10 years in some cases, the price paid at retail has remained rather high. So the consumer has not gotten a bargain. And if there has been a windfall profit, or some other improper profit, the American people should know.

It was also suggested that there ought to be increased buying by the Department of Agriculture for school lunch programs, and by the Department of Defense. This would be of some help to the livestock industry. This is probably more symbolic and psychological than real, but it would be of some assistance.

The next point I make is that the livestock industry is, and has been for some weeks, in serious condition; and with the livestock industry in serious condition, it affects not just the producer, not just the cow-and-calf man, and not just the feeder, but it affects the whole economy. It has affected the economy in Kansas to the tune of $600 million in losses in a $2 billion industry. That is the impact it has had on just one State. I am sure that has been doubled or tripled in some States like Texas. But it has a nationwide impact. It also has a very severe impact on the American consumer, and will have a severe impact on the American consumer in the next few months unless there is some relief for the livestock producers.

I might add, to the credit of the livestock producers, that they are not looking for Government handouts; they are not looking for subsidies; they do not want some grandiose, expensive Federal relief program. But they do, I think with complete justification, feel that if imports are pouring into this country from Australia, because Japan has closed off imports, the European Economic Community has closed off imports, and Canada has closed off imports, America should not be the dumping ground at the very time when one of our domestic industries is in great distress.

I do not believe that is too much for the livestock producers of America to ask. As I say, they are not looking for any Government handout, and they are not looking for any Government subsidy. They believe, as I have said with justification, that there ought to be some protection granted by this Government, and the best protection now is the imposition of import quotas.

REIMPOSITION OF MEAT IMPORT QUOTAS

The amount of concern by Senators reflects the severe conditions existing in the livestock industry and the importance of limiting imports.

I believe the Senate may have to act soon to restrict meat imports if the administration does not act first. The amendment I offer would terminate the suspension of meat import quotas immediately.

The cattle industry in Kansas and throughout the country has been in a disastrous situation for the past 8 months and no relief is in sight at this point. A continuation of this situation can only result in widespread bankruptcy and economic ruin throughout the cattle industry and other meat industries.

CONSUMER HURT IN THE END

The most important point of this whole situation is that consumers will ultimately be hurt the most by economic disaster in the cattle industry, and this, Mr. President, is an issue that every member of this legislative body will have to answer to.

Cheap imported meat this summer may lower the food bill for housewives for a while, but the disruption in the domestic production of beef will ultimately lead to higher prices.

The present trend in the cattle business is that cowherds are being thinned, feedlots are being shut down, and there is a general decline in our ability to produce meat. The future outlook promises a continuation of this trend.

As every cattleman knows, it takes a 3-year cycle to increase the production of beef again once it has dropped. If our capacity to produce is hurt this year, consumers can ultimately expect a long and higher priced road back to ample supply of tender and juicy choice beef.

FUTURE OUTLOOK SEVERE

Mr. President, the outlook for the cattle industry is especially severe for several reasons. First, cow slaughter and the thinning of cowherds is above normal. Second, we have a large inventory of beef in storage at this time. Third, there is a large supply of beef on the hoof presently existing in feedlots which must come to the market in the near future. Finally, since import restrictions have been implemented in Japan and the European Economic Community, we have seen the shipments of beef all over the world redirected to the United States.

All of these trends mean additional beef coming onto the U.S. market. The addition of increased imports will greatly contribute to the market glut and a disastrous situation in the livestock market. The only result can be widespread bankruptcy for cattlemen in Kansas ad all across the country.

To provide relief from this increase in imports, we need this reimposition of meat import quotas, as I offer today.

IMPORTS RISING

Since beef import quotas were lifted in 1972, we have seen the United States become "the world's dumping ground for beef." We have seen incoming shipments of beef rise to 1,354,000,000 pounds of beef in 1973.

In 1974, imports are expected to rise to 1.55 billion pounds. This is about 200 million pounds more than last year's shipment for an astounding increase of nearly 15 percent. Such a level of imports is equivalent to about 3.25 million head of cattle.

In terms of the overall beef industry in the United States, the 1.55 billion pounds of beef imports expected this year represents over 7 percent of the total quantity of beef produced in this country last year. Clearly this portion of the market is enough to have a harmful effect on prices.

And the true level and impact of beef imports this year may not have been properly evaluated yet. Large numbers of cattle are reportedly being fattened in Australia for export. This beef is expected to hit the U.S. market later this summer at the same time increased numbers of American cattle will be ready for sale.

MARKET DEPRESSED BY IMPORTS

The impact of beef imported into this country will be to further depress the market. This meat comes from countries where cattle are fattened for market on grass. While grass-fed cattle can be fattened more cheaply, the meat from these animals is not of the quality most desired by American consumers. The major portion of grass-fed beef will find its way into cheaper cuts such as hamburger and lunch meat.

The deluge of Australian meat expected later this summer will drive the market even lower than the present disastrous prices. The effect is likely to be that most commercial feedlots where prime American beef is produced will be driven out of business and the domestic output of meat will decline.

Mr. President, in the State of Kansas alone the livestock industry is a $2 billion industry. They have sustained a natural loss of over $600 million in just the past 8 months. I say to those who are concerned about the price of meat for the consumer, or the price of meat at all, this is a matter of grave import and it has a great impact wherever cattle are raised. And this is not just for feeders, but for the stockers and cattlemen and livestock producers in general.

Mr. President, it is to prevent disaster in the cattle and meat producing industries that I offer this amendment. It is to avoid ultimately higher meat prices for all American consumers that I urge every Senator to support this measure.

Mr. President, I ask unanimous consent that Public Law 88–482 be printed in the RECORD.

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

PUBLIC LAW 88–482

An act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 852.20 of title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28

F.R., part II, August 17, 1963) is amended to read as follows:

"852.20	Wild animals (including birds and fish) imported for use, or for sale for use, in any scientific public collection for exhibition for scientific or educational purposes	Free Free".

(b) Headnote 1 of part 4 of schedule 8 of such title I is amended by striking out "item 850.50," and inserting in lieu thereof "items 850.50 and 852.20,".

(c) The amendments made by this section shall take effect on the tenth day after the date of the enactment of this Act.

SEC. 2. (a) It is the policy of the Congress that the aggregate quantity of the articles specified in items 106.10 (relating to fresh chilled, or frozen cattle meat) and 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1964, should not exceed 725,400,000 pounds; except that this quantity shall be increased or decreased for any calendar year by the same percentage that estimated average annual domestic commercial production of these articles in that calendar year and the two preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of these articles during the years 1959 through 1963, inclusive.

(b) The Secretary of Agriculture, for each calendar year after 1964, shall estimate and publish—

(1) before the beginning of such calendar year, the aggregate quantity prescribed for such calendar year by subsection (a), and

(2) before the first day of each calendar quarter in such calendar year, the aggregate quantity of the articles described in subsection (a) which (but for this section) would be imported in such calendar year.

In applying paragraph (2) for the second or any succeeding calendar quarter in any calendar year, actual imports for the preceding calendar quarter or quarters in such calendar year shall be taken into account to the extent data is available.

(c)(1) If the aggregate quantity estimated before any calendar quarter by the Secretary of Agriculture pursuant to subsection (b)(2) equals or exceeds 110 percent of the aggregate quantity estimated by him pursuant to subsection (b)(1), and if there is no limitation in effect under this section with respect to such calendar year, the President shall by proclamation limit the total quantity of the articles described in subsection (a) which may be entered, or withdrawn from warehouse, for consumption, during such calendar year, to the aggregate quantity estimated for such calendar year by the Secretary of Agriculture pursuant to subsection (b)(1).

(2) If the aggregate quantity estimated before any calendar quarter by the Secretary of Agriculture pursuant to subsection (b)(2) does not equal or exceed 110 percent of the aggregate quantity estimated by him pursuant to subsection (b)(1), and if a limitation is in effect under this section with respect to such calendar year, such limitation shall cease to apply as of the first day of such calendar quarter; except that any limitation which has been in effect for the third calendar quarter of any calendar year shall continue in effect for the fourth calendar quarter of such year unless the proclamation is suspended or the total quantity is increased pursuant to subsection (d).

(3) The Secretary of Agriculture shall allocate the total quantity proclaimed under paragraph (1), and any increase in such quantity pursuant to subsection (d), among supplying countries on the basis of the shares such countries supplied to the United States market during a representative period of the articles described in subsection (a), except that due account may be given to special factors which have affected or may affect the trade in such articles. The Secretary of Agriculture shall certify such allocations to the Secretary of the Treasury.

(d) The President may suspend any proclamation made under subsection (c), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (a) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set fourth in subsection (a) will be carried out.

Any such suspension shall be for such period, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.

(e) The Secretary of Agriculture shall issue such regulations as he determines to be necessary to prevent circumvention of the purposes of this section.

(f) All determinations by the President and the Secretary of Agriculture under this section shall be final.

Approved August 22, 1964.

Mr. DOLE. Having made what I consider to be a preliminary case, and having served notice on every Senator that in the event satisfactory action is not taken by the administration this amendment or a similar amendment will be tacked on to appropriate legislation by the junior Senator from Kansas or by some other Senator from either side of the aisle, at the first opportunity, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The question is on the engrossment and third reading of the bill.

The bill (S. 1486) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1486

An Act to regulate commerce by authorizing and establishing programs and activities to promote the export of American goods, products, and services and by increasing the recognition of international economic policy considerations in Federal decision-making, and for other purposes.

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 "Omnibus Export Expansion Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS. The Congress hereby finds and declares that:

(1) In 1960 the United States produced 25 per centum of the manufactured goods sold in the world market, but by 1971 the United States-produced percentage of the manufactured goods sold in the world market had dropped to less than 20 per centum. From 1960 to 1971, the United States share of the world's export markets declined from 21 per centum to 16 per centum. Such decrease represents approximately $8,000,000,000 in lost American exports and five hundred thousand lost job opportunities for Americans.

(2) In 1971 and 1972 the United States experienced balance-of-trade deficits for the first time since 1893. The deficit for 1971 was more than $2,000,000,000 and the deficit for 1972 was more than $6,000,000,000.

(3) The standard of living of Americans, the Nation's ability to finance imports, the maintenance of high domestic employment, and the capacity of the United States to contribute to peace and international development and to discharge its international responsibilities and the national security needs are all dependent in significant part upon maintenance of favorable international trade balances. Progressive devaluations of the value of the dollar have provided temporary relief but the real solution to the problem of avoiding chronic balance of trade deficits without periodic devaluations lies in increasing the amount and value of American exports.

(4) The amount of assistance given to producers of American goods, products, and services by the Federal Government in finding and taking advantage of marketing opportunities in foreign nations is very limited compared to the Federal aid and incentive credits extended to domestic industrial and commercial interests and in contrast to the export promotion program maintained by many foreign nations. Since foreign commerce has been, until recently, of only limited significance to the national well-being compared with interstate and local commerce, American policymakers were in the past unaccustomed to recognizing and evaluating international economic policy considerations, and small businessmen who have traditionally produced only for the domestic market lack the experience to sell in foreign markets.

(5) The cooperation of all sectors of American society, including industry, labor, consumers, agriculture, and Government at all levels can result in an expansion of American exports and more favorable business performance abroad.

(b) PURPOSES.—It is therefore declared to be the purpose of Congress in this Act to provide Federal Government assistance and to stimulate export expansion through—

(1) grants to sponsoring governments;

(2) establishment of export training programs;

(3) simplification and standardization of international trade documentation and procedural requirements;

(4) establishment of the Federal Export Agency; and

(5) certifying and assisting United States Export Associations.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Agency" means the Federal Export Agency established under section 9 of this Act.

(2) "Agency of the Federal Government" means any department, agency, bureau, commission, or other office in the executive branch of the Federal Government; any independent agency or establishment of the United States, including a corporation primarily acting as an instrumentality of the United States; and any regional, State, or local agency which is empowered by Congress to issue standards, orders, permits, or other administrative regulations which may become effective without the necessity for approval by any other agency of the Federal Government.

(3) "Association" means a United States export association organized under section 12 of this Act.

(4) "Director" means the Director of the Agency.

(5) "Export activity" means any activity

which may, directly or indirectly, alone or in conjunction with any other such activity, result in the sale of any American goods, products, or services in a foreign nation. The term includes, but is not limited to, advertising, marketing, publicity, and sales activity in any foreign nation; participation in trade exhibitions; product use familiarization; supplying samples, models, and technical data; preparing bids on projects in foreign nations; operating market development and sales offices, showrooms, warehouses, repair or service centers in foreign nations; and transportation services; and trade or documentation procedures.

(6) "Export group" means any combination of two or more persons organized and operated solely for the purpose of carrying on export trade.

(7) "Foreign commerce" means selling or providing goods, commodities, products, data, or transportation, insurance, tourism, or other services, including export activity services, outside the United States.

(8) "Person" means an individual or an association, corporation, partnership, or other organization existing under or recognized by the laws of the United States or the laws of any foreign country.

(9) "Secretary" means the Secretary of Commerce.

(10) "Small business" means a corporation, partnership, joint venture, proprietorship, or other business entity which is independently owned and operated and which is not dominant in its field of operation.

(11) "Sponsoring government" means any State, municipality, regional, or local government agency which undertakes an export expansion project pursuant to section 4 of this Act.

(12) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(13) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

GRANTS TO SPONSORING GOVERNMENTS

SEC. 4. (a) GENERAL.—The Secretary is authorized to make a grant or loan or provide technical assistance to a sponsoring government for any project which is likely to result in an increase in American exports and which is endorsed and supported by such governments: *Provided*, That the amount of any Federal financial assistance shall never exceed 50 per centum of the total cost of the project.

(b) PROCEDURE.—The Secretary shall prescribe such rules, regulations, and procedures as he deems necessary or appropriate for the administration of this section.

(c) FACTORS.—In determining whether to make a grant or loan or provide technical assistance to a sponsoring government, which has filed an application in writing with him for assistance with respect to a particular propect which is described in such form and with such particularity and information as he requests, the Secretary shall consider all relevant factors, including, but not limited to—

(1) the sales potential of such project;

(2) the qualifications and capability of the exporters who would benefit from such assistance;

(3) the availability of assistance through other facilities and programs maintained by the Secretary or other agencies of the United States. The Treasury shall direct sponsoring governments and exporters to utilize such other facilities and programs to the extent possible;

(4) the extent to which the sponsoring government is following and using innovative and imaginative methods and approaches;

(5) the willingness of the sponsoring government and project participants to cooperate with the American exporters and agencies of the United States to increase the total value and amount of American exports; and

(6) the impact of such project on United States demand, supply, and prices.

(d) RECORDS.—Each sponsoring government shall keep such records as the Secretary shall require including records which fully disclose the amount and disposition by all direct or indirect recipients of assistance under this section; the total cost of the project for which such assistance was rendered; the amount of such total cost which was supplied by sources other than the Federal Government; the amount, if any, by which exports of project participants one year after the termination of the project exceed exports by such participants before the project was approved for assistance under this section; and such other records as the Secretary determines will facilitate an effective financial and performance audit.

(e) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly designated representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of sponsoring governments and other project participants which are pertinent to the assistance received under this section.

EXPORT TRAINING PROGRAMS

SEC. 5. (a) GENERAL.—The Secretary, in cooperation with other Federal agencies, is authorized to establish, maintain, and conduct educational and training programs to increase the expertise, capability, and interest of American citizens and businesses in the export trade and to facilitate the efforts of small, new, or potential American exporters. Such educational and training programs may be designed to—

(1) train appropriate persons, including new and potential exporters and their employees and such other persons as the Secretary selects, in technical export problems, such as transportation services, trade documentation and procedures, currency and credit, financing, tariffs, and nontariff barriers to trade;

(2) teach and provide information on effective export and marketing techniques and approaches;

(3) familiarize participants in such programs with previous United States experience in particular markets and any special opportunities, difficulties, and problems likely to be encountered in such markets; and

(4) introduce such participants to all the relevant services and programs maintained by Federal agencies in the United States and in foreign nations and by appropriate international organizations.

(b) AUTHORITY.—The Secretary is authorized to—

(1) contract with American or foreign universities or private individuals or firms to establish, operate, teach or in other ways to assist in maintaining and conducting export training programs under this section. Such contracts may be entered into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) and the temporary and intermittent services of individuals may be procured to the same extent as if authorized under section 3109 of title 5, United States Code, at rates not to exceed $100 a day for qualified individuals. Each department, agency, and instrumentality and each independent regulatory agency of the United States is authorized to furnish to the Secretary, upon written request, on a reimbursable basis or otherwise, such assistance as the Secretary deems necessary or appropriate to the carrying on of export training programs under this section, including but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

(2) issue such rules, regulations, forms, and procedures as he deems necessary or appropriate for the administration of this section; and

(3) acquire by purchase, lease, or otherwise such facilities or other property as may be necessary or appropriate to carry out the provisions of this section.

(c) FEES.—The Secretary shall charge each participant in an export training program a fee sufficient to cover not less than one-half of the total cost of such program for such participant or student, including indirect and overhead costs. The Secretary, in his discretion, may admit to participate without payment of any fee, a limited number of employees of the Federal agencies and the United States Congress who are directly involved in international commerce.

INTERNATIONAL TRADE SPECIALISTS

SEC. 6. (a) (1) There is established within the Department of Commerce and in its field offices an international trade specialist program. The Secretary shall recruit, train, and assign such personnel to the program as may be necessary to implement the purposes of the Act, except that the number of such personnel shall not exceed three in each field office, and shall not exceed one hundred for the entire program.

(2) Each international trade specialist appointed under this section shall have had at least five years of executive level experience in private industry directly related to exporting products from the United States. Any individual who is or who has been a career employee of the United States shall be ineligible for an appointment under this section for a period of five years following the date of his separation from employment by the United States.

(3) Appointments as international trade specialists shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter 111 of chapter 53 of such title, relating to classification and General Schedule pay rates.

(4) An individual appointed as an international trade specialist may occupy such position for a period of (or periods aggregating) not more than five years, and shall be compensated at rates established by the Secretary, but not to exceed $25,000 per annum.

(b) The function of international trade specialists will be to augment existing field office staffs. International trade specialists will be engaged exclusively in the promotion of export expansion activities through the export expansion programs administered by the Secretary.

(c) The Secretary shall conduct an evaluation of the program carried out under this section and transmit a report to the Congress not later than three years after the date of enactment of this Act. Such report shall include information on the recruitment, training, and placement of personnel, the export expansion programs under which such personnel operated, data on increased exports in terms of dollar amounts and quantity of shipments, and recommendations with respect to the program's continuation.

EXPORT MEASUREMENT

SEC. 7. (a) To measure adequately the progress of the export expansion programs carried out by the Secretary, more accurate and definitive measurements than those already in use must be established and implemented.

(b) The Secretary shall establish and implement a procedure within the Bureau of the Census of the Department of Commerce to insure that each shipper's export declaration contains the address (including the

State) of the exporter. Total exports for each State, by country of destination, and by schedule B commodity groups, will be compiled in a monthly report for each of the field office areas of the Department of Commerce.

(c) The permanent implementation of the procedure described in subsection (b) and the availability of funds authorized under subsection (e) are contingent on the implementation and conduct of a pilot project encompassing the exports of not less than eight States for not less than six consecutive months. For the purpose of this subsection, there are authorized to be appropriated not to exceed $175,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976.

(d) An evaluation of the measurement program established under this section shall be carried out by the Office of Field Operations, Department of Commerce, in cooperation with its field offices. Not later than eighteen months after the date of enactment of this Act, the Secretary shall transmit a report on such evaluation to the Congress including therein information on the implementation of such procedures, an analysis of results, and recommendations as to improvements, or discontinuation of the program.

SIMPLIFICATION OF DOCUMENTATION

SEC. 8. (a) PROGRAM.—(1) The Secretary of Commerce, in cooperation with other Federal agencies, in implementing and administering this Act, shall design rules and regulations, requirements for reporting, conduct of programs, recordkeeping, furnishing and compilation of data, inspection of documents, application requirements, and the like in such a manner as to reduce the cost of and expedite the administration, reporting, recordkeeping, and trade documentation and procedures required under this Act. Rules and regulations, reporting, recordkeeping, and trade documentation and procedural requirements under this Act shall be periodically reviewed and revised in the light of developments in the field of information technology.

(2) The Secretary of Transportation is authorized and directed to encourage, develop, and promote the improvement, formulation, and adoption of simplified and standardized international trade documentation and procedural requirements. In performing this function, the Secretary shall consult with all Federal Government agencies involved in international trade on ways to reduce the costs of trade documentation and procedures and shall consult and work with such other qualified and interested persons as he deems appropriate.

(b) IMPLEMENTATION.—The Secretary of Transportation shall take all steps necessary to implement each of the following if after consultation and review, he determines that implementation is likely to further the policy of this Act;

(1) Acceleration of business and Government programs to adopt simplified standardized trade and transportation documentation and procedures;

(2) Encouragement of international agreements on the acceptance of common invoice forms, including the elimination of unnecessary language translation of documentation;

(3) Simplification of documentation identification through the use of standard control numbers;

(4) Replacement of the Government bill of lading with commercial bill of lading;

(5) Review of all existing, new, or revised transport documents on a centrally coordinated basis;

(6) Sponsorship and encouragement of programs of statistical exchanges between the United States and other countries on a bilateral basis to reduce trade documentation and simplify the collection of import-export data;

(7) Simplification, standardization, and coordination of import entry documentation with standardized forms to reduce the complexity of import documentation;

(8) Examination of customs forms, practices, and procedures relating to the administration of customs drawback;

(9) Promotion of intergovernmental programs to eliminate conflicting and/or retaliatory documentation requirements;

(10) Review of customs requirements on the methods of payment of import duties;

(11) Replacement of all special foreign assistance international forms with standard commercial documents; and

(12) Simplification of regulations and procedures for the issuance of export licenses and temporary export licenses.

(c) REPORT.—The Secretary of Transportation shall issue a report to the Congress and the President not later than ninety days after the end of each fiscal year with respect to actions taken to simplify and standardize international trade documentation and procedures together with plans for the following year and legislative recommendations, if any. Such report shall be submitted to the Congress without prior review, clearance, or submission to any other agency or officer of the United States.

UNITED STATES FEDERAL EXPORT AGENCY

SEC. 9. (a) ESTABLISHMENT.—There is hereby established in the Department of Commerce an agency to be known as the Federal Export Agency.

(b) DIRECTOR.—The Agency shall be administered and supervised by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at the rate now and hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(c) DEPUTY DIRECTOR.—The Director shall appoint a Deputy Director, who shall serve as Acting Director during any period of absence or incapacity of the Director and who shall carry out any duties delegated or assigned to him by the Director. The Deputy Director shall receive compensation at a rate now and hereafter prescribed for offices and positions at level of GS–18 on the General Schedule (5 U.S.C. 5332).

(d) INTERMITTENT SERVICES.—The Director may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate to be fixed by the Agency, but not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services for the Agency, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(e) ASSISTANCE AND COOPERATION.—The Agency may secure from any agency of the United States any information relating to international trade and United States foreign policy necessary to enable it to carry out its duties under this Act. Upon request of the Director, each such department or agency is authorized to furnish such information to the Agency on a reimbursable basis or otherwise. The provisions of section 1905 of title 18, United States Code, shall apply to the Agency, its officers and employees, with respect to information obtained under this subsection or in any other manner. The Agency shall not release, without written permission of each person to whom it relates, any information described in section 552(b) of title 5, United States Code.

(f) REORGANIZATION.—The Secretary is authorized, after investigation, to transfer the whole or a part of the functions of any office subject to his jurisdiction to the Agency, upon the preparation of a reorganization plan for the making of the reorganizations as to which he has made findings and which he includes in the plan and the submission of such plan to Congress together with a declaration that such reorganization is necessary or appropriate to further the declaration of policy of this Act: *Provided*, That such reorganization plan shall not become effective if either House of Congress within sixty days after the date of transmittal passes a resolution stating in substance that such House does not favor the reorganization plan.

DUTIES OF AGENCY

SEC. 10. (a) GENERAL.—The Agency shall, in coordination with other Federal agencies—

(1) foster the development of United States export associations or joint export projects composed of businesses which have not actively engaged in substantial export sales operations, or which, in the opinion of the Director, may have potential for further exports;

(2) survey and identify small businesses which possess undeveloped export potential and which are interested in joining with other small businesses in United States export associations or in joint export projects in order to develop a joint export operation;

(3) obtain operating and other business information from such small businesses, from export management concerns, export groups, and from any other person engaged in exporting in order to provide assistance and advice to such small businesses, export groups, or persons engaged in exporting, with respect to the identification of products which have export potential, the combination of products for efficient exportation, and the development of export markets;

(4) provide technical assistance, advice, and financial support through grants, loans, and cost-sharing contracts in accordance with the provisions of sections 13 and 14 of this Act;

(5) provide institutional leadership to bring together small businesses who are interested in entering into joint exporting arrangements through the formation of a United States export association or export groups and to provide assistance in the formation of such associations or groups;

(6) encourage the use of export management companies, and export management personnel and divisions of other companies, by associations or groups wherever appropriate; and

(7) establish and conduct programs for the development of technical, professional, and managerial skills necessary to the establishment and operation of United States export associations and necessary to successful operations by export groups or persons engaged in exporting, and for the development of liaison between the Agency, United States export associations, export groups, and international financial, investment, and marketing institutions.

(b) ANNUAL REPORT.—The Director shall not later than ninety days after the end of each fiscal year, make a report in writing to the Congress and the President on the activities of the Agency, during the preceding fiscal year. The report shall not be subject to prior submission, review, of clearance of any other agency or officer of the United States. The report shall include, but not be limited to, the following:

(1) number of associations, export groups, persons, and sponsoring governments operating under this Act during the fiscal year;

(2) number of companies which are members of such associations or which are participating in joint export projects;

(3) amount and purpose of grants and loans, and cost-sharing contracts provided;

(4) an evaluation of the operations of firms which have formed associations or export groups or persons who have entered into cost-sharing contracts under section 14 of this Act in increasing exports;

(5) any recommendations, including recommendations for legislation, which may be necessary or desirable to improve export performance; and

(6) the activities of the Agency in stimulating an export consciousness within the United States business community.

POWERS OF THE AGENCY

SEC. 11. The Agency is authorized—

(a) to adopt a seal, which shall be judicially recognized;

(b) to issue such rules and regulations, in accordance with section 553 of title 5, United States Code, as it deems necessary and appropriate to carry out the provisions of this Act;

(c) to the extent necessary or appropriate to the policy of this Act, to acquire and maintain property (real, personal, or mixed, tangible, or intangible, or any interest therein) by purchase, lease, condemnation; or in any other lawful manner; to sell, lease, or otherwise dispose of such property in any manner; and to construct, operate, lease, and maintain buildings, facilities, or other improvements on such property;

(d) to accept gifts or donations or services, money, or property in any form;

(e) to collect, analyze, and publish data and information related to exports and export promotion; to maintain such information offices and answering services as the Director determines necessary to give prompt, accurate, and meaningful responses to questions from potential exporters; and to maintain a continuous market survey of the most profitable export opportunities for American goods, products, and services. To the extent possible, the Agency shall utilize programs, data, and information already available in other Federal Government departments and agencies. The Agency shall provide liaison at an appropriate organization level to insure coordination of its activities with such other agencies, departments, bureaus, or offices;

(f) to enter into contracts or other arrangements or modifications thereof, with any person, any department or agency of the United States, and any State government or political subdivision thereof;

(g) to make advance, progress, or other payments which the Director deems necessary or appropriate to further the policy of this Act;

(h) to propose, in the discretion of the Director, additional programs in furtherance of the policy of this Act to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives without prior submission, review, or clearance of any other agency or officer of the United States; and

(i) to take such other action as may be necessary to carry out the provisions of this Act.

UNITED STATES EXPORT ASSOCIATIONS

SEC. 12. (a) ELIGIBLE BUSINESS.—Upon application in writing by a small business, the Agency shall certify such business as eligible to participate in a United States export association if—

(1) its average annual sales during the five calendar years preceding the year in which such application is made were less than $30,000,000;

(2) not more than 5 per centum of its average annual sales during such period consisted of sales to foreign markets, not including Canada and Mexico, except insofar as the Director determines that such small business has the potential for substantially increased export;

(3) it is not already a member of more than one United States export association; and

(4) on the basis of an examination and estimate of the quality and appeal of its products in relation to demand in foreign markets, the Director determines that membership in a United States export association would likely result in an increase in the export sales of such business.

(b) FORMATION.—Three or more businesses, which have been certified as eligible businesses under subsection (a) of this section may combine for the limited purpose of forming a United States export association subject to the provisions of this title. Such an association shall be a corporation formed organized to operate as a cooperative marketing entity exclusively to—

(1) enter foreign markets and engage in export sales of American goods, products, and services; and

(2) provide members of such associations with appropriate international trade assistance and export activity services, including but not limited to—

(A) identification of foreign markets for the goods, products, and services sold by such members;

(B) promotion of goods, products, and services sold by such members in foreign markets; and

(C) assistance to such members in technical aspects of exporting such as obtaining necessary licenses, financing, and guarantees.

(c) QUALIFICATION.—A United States export association formed in accordance with the requirements of subsection (a) and (b) of this section may qualify for assistance from the Agency if—

(1) the association is composed of at least three businesses, each of which has been certified as an eligible business under subsection (a) of this section;

(2) the association files an application for qualification with the Agency. Such application shall be presented in such manner and shall contain and be accompanied by such information as the Director may require. Each such application shall provide that—

(A) any assistance received under this title shall be used exclusively for the purposes authorized under this title; and

(B) the association and each of its members agree to observe the rules and regulations promulgated under this title;

(3) each business which is a member of the association has paid not less than $1,000 into a common escrow account; and

(4) the association has appointed a chief executive officer who demonstrates to the satisfaction of the Director that he is qualified to direct the export activities of the association, or the association has retained an export management firm which demonstrates to the satisfaction of the Director that it is qualified to carry out such export activities.

(d) LIABILITY.—A United States export association formed and qualified under this section shall be liable to the United States for repayment of the full principal, interest, and any penalty due on any loan received from the Agency. If such association breaches such obligation, in whole or in part, each of the businesses which is a member of such association shall be directly liable, jointly and severally with the other members, for repayment of the loan, including any unpaid principal, interest, and penalty amounts. Termination of membership in such an association on the part of any business shall not operate to terminate the liability of such business for association debts as of the date of withdrawal.

(e) ANTITRUST LAWS UNIMPAIRED.—Nothing in this Act shall be construed to modify or repeal any provision of any of the antitrust laws of the United States, including any laws prohibiting restraints of trade, unfair trade practices, or impairment of competition.

AGENCY ASSISTANCE TO ASSOCIATION

SEC. 13. (a) TECHNICAL ASSISTANCE GRANT.—The Agency is authorized to make a technical assistance grant to a United States export association which is formed and qualified under section 12 of this Act. The amount of such grant shall be not less than the amount of money in the common escrow account maintained by such association and not more than $75,000. Technical assistance grant funds may be used by such association for a period of not more than two years after the date of application for such grant to—

(1) secure expert advice and assistance in developing the operating agreements necessary to further joint export operations by members of such associations;

(2) finance management seminars and teaching programs for members of such associations with respect to operating export information including export market analysis, export marketing, channels of export distribution, and identification of promising market areas for products;

(3) develop common catalogs and other marketing aids for such association and its members; and

(4) develop such other operating export information as is determined by the Agency to be appropriate.

(b) LOAN.—The Agency is authorized to make a loan to a United States export association which is formed and qualified under section 12 of this Act. The amount of such loan shall be not in excess of the amount paid in by the members of such association to provide funds for the employment of management and other personnel and to provide working capital for the development of international representation of goods, products, and services sold by such members. The interest rate of such loan shall be not less than the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum.

(c) LIMIT.—No United States export association (including any successor association or any association composed of substantially the same members) shall receive from the Agency more than one technical assistance grant and one loan.

(d) RECORDS.—(1) Each recipient of Federal assistance under sections of this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by sections 13 and 14 of this Act, shall keep such records as the Agency shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Director of the Agency, in the administration of these sections, shall minimize recordkeeping and documentation in a manner consistent with sound commercial and administrative practice and shall design rules and regulations, and requirements for reporting conduct of programs, recordkeeping, furnishing and compilation of data, inspection of documents, application requirements, and other such matters in such a manner as to reduce the cost of report-

ing, recordkeeping, and export documentation required.

(e) AUDIT AND EXAMINATION.—The Director of the Agency and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related to or pertinent to the grants, subgrants, contracts, subcontracts, loans, or other arrangements referred to in such subsection.

AGENCY ASSISTANCE FOR JOINT EXPORT PROJECTS

SEC. 14 (a) JOINT EXPORT PROJECTS.—The Agency is authorized to enter into a cost-sharing contract with any export group or persons comprising such group to further the purposes of this Act and to foster, promote, and develop the export trade of the United States. Such a cost-sharing contract may be entered into by the Agency if—

(1) the export activity to be undertaken will be in addition to any export activity which such export group or persons comprising such groups are likely to have undertaken at such time in the absence of such contract;

(2) the recipient of such Agency assistance demonstrates to the satisfaction of the Director that the chief operating officer of such project is qualified to direct such project;

(3) the cost shared by the Agency will be incurred on behalf of such export group or persons comprising such group in carrying on export trade;

(4) the Agency's share of any costs shall not exceed 50 per centum of the total costs or $100,000, whichever is less;

(5) such export group or persons comprising such group has not received a technical assistance grant or loan authorized under section 13 of this Act or a prior contract authorized under this section; and

(6) the Director determines that such export activity will not have an adverse effect on the United States supply, demand, and prices of those goods or services to be exported.

(b) PROCEDURE AND CONDITIONS.—(1) Any export group or persons comprising such group seeking to enter into a cost-sharing contract with the Agency shall file an application in writing with the Director in such form and containing such information as he shall by regulation prescribe. Such application shall be acted upon in accordance with regulations of the Agency.

(2) Any cost-sharing contract that may be entered into under this section shall include a provision requiring the Agency's share of the cost incurred to be repaid from gross profits earned by the export group or persons comprising such group from sale of goods or services resulting from such cost-sharing contract, together with any other reasonable conditions as the Director shall impose.

AMENDMENTS TO THE EXPORT TRADE ACT

SEC. 15. (a) Section 1 of the Export Trade Act (40 Stat. 516; 15 U.S.C. 61) is amended to read as follows:

"As used in this Act—

"(1) 'Antitrust laws' means the laws defined as such in sections 12 and 44 of title 15, United States Code, the Federal Trade Commission Act (15 U.S.C. 41–58), and other laws of the United States in pari materia, including State laws on antitrust and unfair methods of competition, and all amendments to the foregoing.

"(2) 'Association', wherever used in sections 1 through 5 of this Act, means any combination, by contract or other arrangement, of two or more persons who are citizens of the United States or which are created under and exist pursuant to the laws of any State or of the United States.

"(3) 'Export trade' means exclusively trade or commerce in goods, products, merchandise, or architectural, engineering, construction, training, financing, insurance or project or general management services or the licensing for distribution or exhibition of motion pictures or television films or tapes or similar services which are exported, or in the course of being exported, from the United States to any foreign nation. The term does not include—

"(A) the production, manufacture, or sale for consumption or for resale within the United States of such goods, products, merchandise, or services, or any act in the course of such production, manufacture, or sale for consumption or for resale;

"(B) any act, practice, agreement, or course of conduct a substantial effect of which is to constitute a restraint of trade or commerce, including foreign commerce, in the United States; or

"(C) trade or commerce in patents, licenses, or know-how except as incidental to the sale of such goods, products, merchandise, or services.

"(4) 'United States' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(5) 'Trade within the United States', wherever used in sections 1 through 5 of this Act, means trade or commerce between two or more States.".

(b) Section 2 of the Export Trade Act (40 Stat. 517; 15 U.S.C. 61) is amended by inserting "(a)" before the first sentence thereof, deleting "therein" at the end thereof, and adding the following: "therein: *Provided further,* That a person is eligible to participate in an association if, upon application in writing, the Federal Trade Commission finds that—

"(1) a partnership's, person's, or corporation's export sales are likely to be substantially increased as a result of membership in an association and that it is not likely to increase export sales significantly without membership in an association, or

"(2) a partnership's, person's, or corporation's membership in an association is essential to the effective functioning of such association.

The provisions of the preceding proviso shall not apply to any association operating under this Act prior to the date of enactment of the Omnibus Export Expansion Act, or to any person which was a member of such association before that date, except with respect to participation by that person in any other association beginning after that date.".

(c) Section 2 of such Act is further amended by adding at the end thereof the following two new subsections:

"(b) The Secretary of Commerce, in consultation with the Chairman of the Federal Trade Commission, shall establish within the Department of Commerce a program to promote and maximize the formation of associations and the use of the provisions of this Act in a manner consistent with this Act and the antitrust laws.

"(c) The Chairman of the Federal Trade Commission and the Attorney General of the United States and their duly authorized representatives shall meet and discuss periodically as necessary to avoid conflicting positions regarding the formation and maintenance of associations.".

CONFORMING AMENDMENT

SEC. 16 Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(134) Director, Federal Export Agency."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 17. There are hereby authorized to be appropriated such sums as are necessary—

(a) for the fiscal year ending June 30, 1975, not to exceed to—

(1) $5,300,000 for purposes of carrying out section 4 (grants to sponsoring governments);

(2) $800,000 for purposes of carrying out section 5 (export training programs); and

(3) $25,000,000 for programs carried out by the Agency.

(b) for the fiscal year ending June 30, 1976, not to exceed—

(1) $8,000,000 for purposes of carrying out section 4;

(2) $1,500,000 for purposes of carrying out section 5; and

(3) $35,000,000 for programs carried out by the Agency.

(c) for the fiscal year ending June 30, 1977, not to exceed—

(1) $8,000,000 for purposes of carrying out section 4;

(2) $1,500,000 for purposes of carrying out section 5; and

(3) $35,000,000 for programs carried out by the Agency.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. INOUYE and Mr. GRIFFIN moved to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 883 to 894, inclusive.

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

CARIDAD R. BALONAN

The bill (S. 2382) for the relief of Caridad Balonan, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(2) and 204 of the Immigration and Nationality Act, Caridad R. Balonan shall be held and considered to be the natural-born alien daughter of Felix O. Balonan, a lawful resident alien of the United States. No natural parent, brother, or sister of the said Caridad R. Balonan, by virtue of such relationship, shall be accorded any right, privilege, or status under the Immigration and Nationality Act.

IVY MAY GLOCKNER

The joint resolution (S.J. Res. 192) to grant the status of permanent residence to Ivy May Glockner, formerly Ivy May Richmond nee Pond, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of Ivy May Glockner formerly Ivy May Richmond nee Pond, in whose case deportation was suspended in accordance with the provisions of section 19(c)(2) of the Immigration Act of February 5, 1917, as amended (39 Stat. 889; 54 Stat. 672–673), the Commis-

sioner of Immigration and Naturalization is authorized and directed to cancel deportation proceedings and, in accordance with the provisions of the said section 19(c)(2) of the said Act, to record the alien's lawful admission for permanent residence as of June 9, 1946, upon payment of a fee of $18 to the Commissioner.

MILDRED CHRISTINE FORD

The bill (H.R. 1961) for the relief of Mildred Christine Ford, was considered, ordered to a third reading, read the third time, and passed.

MRS. GAVINA A. PALACAY

The bill (H.R. 2514) for the relief of Mrs. Gavina A. Palacay, was considered, ordered to a third reading, read the third time, and passed.

CHARITO FERNANDEZ BAUTISTA

The bill (H.R. 5477) for the relief of Charito Fernandez Bautista was considered, ordered to a third reading, read the third time, and passed.

GIUSEPPE GRECO

The bill (H.R. 7685) for the relief of Giuseppe Greco was considered, ordered to a third reading, read the third time, and passed.

VICTOR HENRIQUE CARLOS GIBSON

The Senate proceeded to considered the bill (S. 864) for the relief of Victor Henrique Carlos Gibson which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, notwithstanding the provision of section 212(a)(22) of the Immigration and Nationality Act, Victor Henrique Carlos Gibson may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act and the provisions of section 245(c) of the Act shall be inapplicable in this case: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this Act: *Provided further*, That nothing in this Act shall be construed to waive the provisions of section 315 of the Immigration and Nationality Act.

The amendment was agreed to.

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

LIDIA MYSLINSKA BOKOSKY

The Senate proceeded to consider bill (H.R. 2537) for the relief of Lidia Myslinska Bokosky which had been reported from the Committee on the Judiciary with an amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

H.R 2537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Mrs. Lidia Myslinska Bokosky, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act, shall not be applicable in this case.

LINDA JULIE DICKSON (NEE WATERS)

The Senate proceeded to consider the bill (H.R. 5667) for the relief of Linda Julie Dickson (nee Waters) which had been reported from the Committee on the Judiciary with an amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed, as follows:

H.R. 5667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Linda Julie Dickson (nee Waters) may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

MELISSA CATAMBAY GUTIERREZ

The Senate proceeded to consider the bill (H.R. 4590) for the relief of Melissa Catambay Gutierrez which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Melissa Catambay Gutierrez and Milagros Catambay Gutierrez may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Mr. and Mrs. Ulpiano F. Gutierrez, citizens of the United States, pursuant to section 204 of the said Act: *Provided*, That the brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An Act for the relief of Melissa Catambay Gutierrez and Milagros Catambay Gutierrez."

EXTENSION OF DEFENSE PRODUCTION ACT

The bill (S. 3270) to amend the Defense Production Act of 1950, as amended was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 717(a) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2166(a)), is further amended by striking out the date "June 30, 1974" and inserting in lieu thereof the date "June 30, 1976".

LANCE CPL. FEDERICO SILVA— PASSED OVER

The bill (H.R. 7682) to confer citizenship posthumously upon Lance Cpl. Federico Silva, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The PRESIDING OFFICER. Without objection, the bill will be passed over.

PENTAGON SPENDING

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a detailed article entitled "Power Struggle: Critics Blame Congress for Inability to Curb Spending by Pentagon," written by Richard J. Levine and published in the Wall Street Journal of Thursday, June 13, 1974.

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

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, this is an excellent article which explains in some detail the outstanding work being done by the distinguished Senator from New Hampshire (Mr. MCINTYRE).

It is a story and a study, I think, worth the attention of all Members of the Senate, because it gives one an idea of the difficulties which confront Senator MCINTYRE, and the Herculean efforts he has made and is still making to face up to the situation which confronts his particular subcommittee, the Committee on Armed Services, the Senate, and I might say the American people as well.

The article follows:

EXHIBIT 1

POWER STRUGGLE: CRITICS BLAME CONGRESS FOR INABILITY TO CURB SPENDING BY PENTAGON

(By Richard J. Levine)

WASHINGTON.—Sen. Thomas J. McIntyre is worried.

For six years, the moderate New Hampshire Democrat has chaired the influential Senate Armed Services subcommittee on military research and development, doggedly searching for fat in the Pentagon's mammoth budget requests. It is an experience that has left him deeply concerned about Congress' ability to control military spending—or even to stay on top of an ever-changing array of Pentagon programs.

"I sometimes feel as if we are wrestling with a greased octopus," he says.

Sen. McIntyre is no knee-jerk critic of the military. But the concern he voices is essentially the same as that of the Pentagon's sharpest critics—a concern heightened by indications that Pentagon budgets are headed toward $100 billion-plus levels, even though America's combat role in Vietnam has ended and relations have improved with the Soviet Union. Many of these critics are coming to the view that Congress will never effectively challenge the sprawling defense bureaucracy until it overcomes formidable organizational and political problems of its own.

The immensity of Congress' task is all too apparent to the lanky, 59-year-old Senator from New Hampshire. Over the years Mr. McIntyre has pored over thousands of pages

of small-print budget books, chaired hundreds of hearings and studied projects ranging from death-dealing lasers and deep-diving submarines to long-range bombers and low-flying missiles.

$3.3 BILLION IN CUTS

After a half-decade of hard work, he can cite a number of accomplishments. His five-member panel has recommended cumulative cuts in military R&D totaling some $3.3 billion, most of which have been approved on the Senate floor. The Senator has played an important role in slowing and reshaping such major weapons programs as the Trident ballistic missile submarine. And as a result of the panel's persistent probing, he says, Pentagon research officials now supply "sharper answers and faster admissions of being wrong."

But despite these modest successes, the defense budget for the fiscal year beginning July 1 has grown to a peacetime record of $92.6 billion, including $9.3 billion for research and development alone. Sen. McIntyre is concerned about the rapid growth of R&D budgets, frustrated by the changing rationales used by defense planners to justify some programs and alarmed by the Pentagon's tendency to move weapons systems into production almost automatically once they have reached advanced stages of development.

"How can a handful of guys compete against a request for $9.3 billion?" he asks plaintively in his Yankee accent. "The size and complexity of our military R&D effort exceeds one's grasp, however ambitious one's reach."

POLITICAL UNWILLINGNESS

The current wrestling match is almost over for Sen. McIntyre. The Senate Tuesday passed a $21.8 billion authorization bill for weapons research and procurement, leaving only the Senate-House conference. The full Armed Services Committee trimmed $1.27 billion from the Pentagon request, much of it for military aid to Vietnam. And the Senate has left the committee's work almost untouched, rejecting floor amendments aimed at stopping weapons or withdrawing U.S. troops from overseas. A McIntyre amendment to defer development of more accurate and more powerful nuclear warheads for intercontinental ballistic missiles was defeated 49 to 37, despite the Senator's argument that such improvements could increase the danger of nuclear war.

As many defense critics see it, setbacks such as these result primarily from Congress' political unwillingness to grapple with the Defense Department, rather than from an institutional inability to do so. "Fundamentally, it's a problem of political will," says an aide to a liberal Democratic Senator. "It isn't that Congressmen are dumb or uninformed, but just that they aren't ready to challenge the Pentagon. There isn't any popular demand."

Among the factors contributing to this reluctance are Congress' disenchantment with the still-shaky U.S.-Soviet detente, Capitol Hill's preoccupation with presidential impeachment and the traditional wariness of politicians to make defense cutbacks that could end up costing constituents jobs.

LARGE BUDGET, SHORT TIME

However, other observers believe Congress is suffering from a lack of organization as well as a lack of will. And after being repeatedly rebuffed in attempts to cut defense spending by eliminating funds for individual weapons systems, they're looking for new tactics and approaches.

"The defense budget is too large, congressional time is too short, and the problems of achieving consensus on specific cuts are usually overwhelming," argues the Federation of American Scientists, a public-interest lobby that favors defense reductions. "During a quarter century of cold war, Congress has never come to grips with the Defense Department" except through the Armed Services and Appropriations committees, which tend to be "somewhat stacked" in favor of the Pentagon. The group's proposed solution: congressional imposition of an "overall limit" on the defense budget that would dictate across-the-board cuts.

Rep. Les Aspin, the young Wisconsin Democrat who has emerged as one of the Pentagon's severest critics, favors this approach. For one thing, he says, the ceiling approach allows Congressmen and Senators to translate into law a "political judgment" that defense spending is too high, without having to challenge the complex technical arguments of military professionals.

Last year, an Aspin amendment to chop $950 million from the procurement bill was approved by the House, then subsequently was killed quietly by Senate-House conferees. This year, the Wisconsin legislator's call for a $733 million reduction was defeated on the House floor.

But Sen. McIntyre rejects across-the-board cuts regardless of their political appeal, arguing that they represent an abdication of Congress's duty to review Pentagon requests in detail. This review is especially important in the research-and-development budget, he maintains, because it contains seed money for future weapons and is crucial to whether the U.S. remains ahead of the Soviet Union in military technology.

The problem is that it's impossible for the small committee to examine, much less master, the entire R&D request because of its staggering size. (The other subcommittee members are Democrats Harold Hughes of Iowa and Harry Byrd of Virginia and Republicans Peter Dominick of Colorado and Barry Goldwater of Arizona.)

This year's $9.3 billion request covered 550 budget items, including the esoteric (atmospheric investigations, $4.2 million), the mundane (mine warfare, $2.7 million) and the controversial (B1 strategic bomber, $499 million). These budget items break down into some 3,000 individual programs and projects and some 30,000 distinct subtasks.

Confronted with so vast a job, the subcommittee has become highly selective about those programs it looks at in hearings. Its practice is to examine big-money projects like the B1 bomber and the Trident missile submarine and brand-new projects like improved-accuracy nuclear warheads. There's also a tendency to "ride herd on old familiar friends" that have caused concern in the past, Sen. McIntyre says.

FAT, LEAN, OR ADEQUATE

This spring the committee held 91 hours of formal hearings on 37 programs representing roughly one-third of the R&D money requested by the Pentagon. Committee staffers began preparing for the closed-door hearings about a month before they opened in March, with the bulk of the work falling to Hyman Fine, the 56-year-old staff chief of the subcommittee. Mr. Fine, a former budget analyst for the Air Force, worked closely with Robert Old, who represents the panel's Republican members, and Larry Smith, Sen. McIntyre's administrative assistant. Using the 11 thick "justification" books sent over by the Pentagon and information obtained in informal meetings with defense officials, the staff prepared hundreds of questions for the major witnesses.

So when Malcolm Currie, the Defense Department's new director of research and engineering, appeared first before the full committee and then the subcommittee, Sen. McIntyre was ready: "Would you describe the $9.3 billion (R&D) program as fat, lean or merely adequate? Was the $9.3 billion the direct result of your recommendation to the Secretary of Defense? Will you identify and describe all programs . . . which are to provide for improved accuracy of our intercontinental ballistic missile and submarine-launched ballistic missile forces?"

Mr. Fine was hired by Chairman John Stennis of the Senate Armed Services Committtee in late 1969, about a year after the courtly Mississippian had created the R&D panel and picked Sen. McIntyre to head it. Sen. McIntyre could use more men like Mr. Fine, but he explains that there isn't much chance he will get them because "Sen. Stennis believes all we can do is question, not match the Pentagon expertise."

Yet a larger staff might enable the McIntyre panel to cope more effectively with one of its most difficult problems—the constantly changing rationales employed by the Pentagon to justify some weapons projects. "They've got more ways to skin a snake than you can think of," Sen. McIntyre says. "Always there's a new argument as to why new equipment is needed. This year the big argument is what we learned from the Yom Kippur War."

For example, the Air Force for years sold the AWACS airborne warning and control system (a Boeing 707 jet with a new radar and sophisticated communications equipment) primarily as a defense against Soviet long-range bombers. But the Soviet bomber threat is no longer considered very grave. Perhaps for that reason, the AWACS is now being pushed as the ideal system for controlling tactical fighter planes in a conventional war. The generals assert that the experience of the Israeli air force against the Egyptians and Syrians last October demonstrated the need for such a system. The Senate bill passed Tuesday contains money for the first 12 AWACS production models.

Another serious problem confronting the R&D subcommittee is pressure from the Pentagon to put weapons into production once they are in advanced stages of development. "The reality of bureaucratic momentum . . . makes most R&D efforts virtually tantamount to a decision to acquire a weapons system," explains Sen. McIntyre.

A FEW SUCCESSES

Though Congress still tends to defer to the Pentagon in this area, Mr. McIntyre—who describes himself as a "small-town country lawyer" who didn't know "Cal Tech from MIT" when he became chairman—has had some success in getting the Defense Department to proceed more cautiously in developing complex weapons, while—it is hoped—avoiding costly technical difficulties. Mr. Currie, the Pentagon R&D chief, cites recent Pentagon decisions to slow—though not to kill—development of such systems as the B1 bomber and the SAM–D air-defense missile.

The McIntyre panel has been the key factor in preventing the Navy from rushing ahead with *development* of a 2,000-ton surface-effect ship, a vessel designed to skim over the seas on a cushion of air at high speeds, before work is completed on a smaller version. And while Sen. McIntyre last year narrowly lost a floor fight to slow construction of the Trident missile submarine, his views eventually prevailed in the Pentagon, and the program has been decelerated. A senior Defense Department official admits that "McIntyre raised some better questions than we gave answers to."

But on many other issues, Sen. McIntyre hasn't prevailed. He has watched uneasily as the price of the B1 bomber has risen to $61.5 million apiece, knowing the program is in trouble and wondering at what point the plane becomes "cost ineffective." He has tried without success to get the Army and the Navy to build one rather than two heavy-lift helicopters. "I'm right back where I started," he says, "All the rivalry between the services is still there. Nothing is going to put a stop to that."

BORING INTO THE BUDGET

Over the years, Sen. McIntyre's work on the R&D subcommittee has won respect in both the Senate and the Pentagon. "They're doing a first-rate job," says Richard Kaufman, a military analyst for Sen William Proxmire (D., Wisc.), a leading Pentagon critic, John Foster, Pentagon research chief from 1965 until last June, says the panel made a "dedicated effort to really bore into" the R&D budget, sometimes getting into details he considers better left to the Defense Department.

It is his growing reputation, Sen. McIntyre's aides believe, that makes it more and more likely he can carry the "middle of the Senate" on a given issue. But even today, the Senator concedes, it is probably impossible to beat a major weapons system on the floor of the Senate if the Pentagon and the Armed Services Committee both support it.

Despite today's frustrations, Sen. McIntyre is in a lot stronger position than in 1968, when Sen. Stennis first approached him about the R&D chairmanship. He had gone on the Armed Services Committee in 1965, he says, "with the express intent of trying to . . . be helpful to the Portsmouth (N.H.) Naval Shipyard," one of the major employers in his economically deprived state. But he became increasingly disenchanted with the committee, then under the direction of the powerful Richard Russell of Georgia.

"Richard Russell's knowledge was sacrosanct," he recalls. "We sat at a big table, and I was way down at the bottom. It really got frustrating. One day I asked, 'Will the chairman speak a little louder so we down here can hear what the chairman and the ranking minority member are deciding for us?"

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

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

The PRESIDING OFFICER (Mr. BARTLETT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DIFFICULTIES CONFRONTING THE AMERICAN BEEF INDUSTRY TODAY

Mr. MANSFIELD. Mr. President, a group of between 35 and 40 Senators from the cattle-producing States met this morning for the purpose of considering the difficulties which confront the beef industry of this country today.

Not only is cattle production in a precarious condition at the present time due to the decline in prices and the increase in costs, but the same applies in a similar degree to chickens, eggs, and the pork segments of the economy.

At that time, the group met for the purpose of considering ways and means to cope with the situation which has developed. On the basis of the unanimous agreement of those present—and it was a bipartisan group of Senators—it was decided that a letter would be dispatched to the President of the United States in which certain requests would be made having to do with legislation to provide emergency assistance to the cattle industry under the Department of Agriculture loan program.

This proposal was acceded to because of the great need and the tremendous losses which the feedlot operators are undergoing at the present time.

Then an agreement was made—again unanimously—that the administration look into the possibility of expanding military food programs through the Department of Defense, and school lunch programs, through the better use of beef, pork, chickens and eggs; and, most important, it was the unanimous feeling of the bipartisan group of Senators in attendance that the President should exercise his authority in reimposing strict import quotas on beef and livestock products which compete with those in this country.

Mr. President, let me say that, in addition, the Chairman of the Committee on Agriculture and Forestry, the distinguished Senator from Georgia (Mr. TALMADGE), announced that the subcommittee, under the chairmanship of the distinguished Senator from South Dakota (Mr. MCGOVERN), would hold hearings on the question of legislation to provide emergency assistance to the cattle industry under the Department of Agriculture loan program beginning on Monday next.

It was also announced that representatives of various groups connected either directly or indirectly with the beef segment of the economy had been invited to a meeting at the White House on Monday next for the purpose of considering the drastic situation which confronts the beef, the cattle, and other segments of the agricultural economy.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter I wrote to the President of the United States on June 7, 1974.

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

U.S. SENATE,
Washington, D.C., June 7, 1974.

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

DEAR MR. PRESIDENT: In recent days, presentations have been made to the White House staff in behalf of a seriously depressed livestock industry. I wish to join with my colleagues in asking that you give this situation your personal attention. We cannot permit such a vital element of our economy to flounder as it is now. Action must be taken to close the gap between prices received by the livestock producers and the prices charged by the packers and retailers.

The reasons for this predicament are varied. The main point is that something has to be done now to protect the ranchers of our Nation. I am joining with several of my western colleagues in the introduction of legislation to provide emergency assistance to the cattle industry under the Department of Agriculture's loan program. These loans are vital to feed lot operators. I also concur in the recommendations that the Federal Government introduce a beef purchase program for military and school lunches. Most importantly, I ask that you exercise your authority in reimposing strict import quotas on beef and livestock products which compete with those in this Country. As you know, I have consistently supported this safety valve and the present situation underscores the need to reimpose these quotas.

Your cooperation and assistance in this matter are vital. I am convinced that we can have a strong and healthy livestock industry if some reasonable attitudes can be returned to the price of beef in the retail market.

Respectfully yours,

MIKE MANSFIELD.

Mr. MANSFIELD. Mr. President, I received a reply to that letter this morning from Tom C. Korologos, Deputy Assistant to the President, which reads as follows:

JUNE 10, 1974.

DEAR SENATOR: I would like to acknowledge and thank you for your June 7 letter to the President expressing concern about the problems facing the cattle industry.

I have noted that you plan to join several of your colleagues in the introduction of legislation to provide emergency assistance to to industry under the Department of Agriculture's loan program. I have also made note of your request that action be taken to reimpose quotas on meat imports, and I will be pleased to pass along your letter to the President upon his return from the Middle East. This matter is receiving most careful attention by his agricultural and economic advisors at this time, and you may be assured that your views will have a part in the deliberations.

With warm regard,

Sincerely,

TOM C. KOROLOGOS,
Deputy Assistant to the President.

Mr. President, I also made an opening statement to the bipartisan group of Senators which met this morning which reads, in part, as follows:

The White House yesterday announced a conference of cattlemen, meat packers, grocery-chain executives and agricultural lenders next Monday to see what can be done to reverse the falling price of live cattle and prevent the threat of widespread bankruptcies among the cattle feeders.

Cattle feeders have been complaining that although the price of beef on the hoof has dropped more than 25 percent since the beginning of the year.

The cattle feeders claim they are losing between $100 and $200 on each animal they market because of the continued high price of feed and the plunging price of cattle.

Yesterday the price of cattle dropped another $1 per hundred pounds in the Omaha livestock markets for the third consecutive day. The price of an average 1,100-pound prime steer has declined between $30 and $35 this week alone.

Paarlberg, however, indicated that the Nixon administration may be opposed to bills in Congress to provide up to $3 billion in government-backed loan guarantees to cattle feeders to stave off bankruptcies because "it would be bailing out creditors rather than helping out farmers."

I disagree with that contention.

Continuing the statement:

Senate hearings are scheduled Monday on the various financial assistance measures.

Mr. President, if my information is correct, that will get underway in the House Agricultural Committee, and they will consider an omnibus bill related to the

various matters concerned with the situation which has developed.

That is about it, Mr. President, at this time.

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

Mr. MANSFIELD. Yes, indeed; I am glad to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I want to compliment the distinguished majority leader for his continuing interest in and concern for the problems of all Americans, including those in the livestock business.

I am one of those who attended the meeting this morning, responding to the Majority Leader's call that we get together to discuss what might be done to solve the cattlemen's problems and what steps could be taken in order to bring such measures of relief as are within the purview of Congress, and further to explore with him and others some suggestions to the executive branch of the government. For those who are uniquely familiar with agriculture, there is an awareness that the livestock industry, the cattle business specifically, has never asked for the kind of support or the kind of programs that we have seen in operation in times past with many other segments of agriculture. Beef is not a price-supported commodity as wheat has been, as cotton has been, as corn has been, as tobacco has been, as wool has been, and as many other products have been. Rather, the feeling of the typical cowman has been that he would rather take his lumps, take the ups and downs in the market, and have the opportunity of benefiting when prices rise, than to be locked into a Government price support program, to price controls, to Government controls — period — programs that all too often have kept agriculture in a deeply depressed state.

Under this philosophy, it is true that the typical cattleman has had good times and bad times. What is not generally known is that for nearly 20 years the price of cattle in this country was lower than it was in the early 1950's. I think that in 1951 or 1952 the price was higher than it was at any subsequent time for a period of almost 20 years. Everyone will recall that last August, when price controls were removed from most products, most commodities, they were not removed from beef. As a consequence, many feeders who had cattle on feed then made what has since proved to be a very bad decision.

Anticipating the time when price controls would be removed, as indeed they would be later, they kept their cattle. They withheld from the market cattle that normally would have been marketed.

There was intense resentment throughout the country over the sharp escalation in the price of beef, and the typical housewife reacted as we might all have anticipated she would. She readily joined others in reducing purchases of beef.

About the time the price controls were taken off, the pattern seemed to have been set, the pattern that was being manifested in homes all across America, that they were going to eat products other than beef, or at least eat less beef than they had been eating earlier.

The price of live cattle started dropping. It has since dropped steadily, so that today we find, comparing the price of live cattle now with what it was less than a year ago, the drop has not only been dramatic; it has been disastrous.

Many feeders, as the distinguished majority leader has said, have gone broke. The losses throughout the feeding industry are oftentimes from $100 to $150 per head, collectively some $1.5 billion. Some feeders have experienced losses even more severe than those figures, or $150 to $200.

There have been a great number of bankruptcies throughout the United States. Some people who are in the so-called cow and calf business, who sell feeder animals, may think, if they have not been in business very long, that this is of no particular concern to them. But it is of great concern to everyone and to that group of cattle producers particularly, because what they are able to get for their animals offered to the feeders will be a reflection of the profitability of feeder operations in the past feeding season.

As a consequence, the disastrous experience that the feeders have had certainly is being driven home very forcibly and traumatically to cattle producers today. Feeder prices of calves which a year ago were from as much as 80 cents per pound to 60 cents per pound have dropped this year to prices in the thirties.

We are finding out, as we should have known all along, that if the feeder does not have a profitable operation, those in the cattle-raising business may also anticipate not having a profitable operation.

While the price of live cattle has been dropping, the costs of raising cattle have continued to go up. The price of labor is higher. The price of practically everything that the farmer and rancher uses is higher. The price of baling wire has gone up, I am told by some of my constituents, as much as 4 times what it was a year ago, for those who can even find this product.

One of the things has been speculated about by a number of people is, Why is it that despite the very dramatic and significant drop in the price of live cattle, we find no significant paralleling drop at the retail level?

Economists oftentimes discuss this facet of the economy—that is, that when prices are rising, the spread between what live cattle sell for and what the price of beef is at the retail level is narrow.

I suppose what happens invariably is that with prices of live cattle rising, there is a built-in resistance to rising prices in the supermarket. As a consequence, the margin, the difference between the price of meat at the marketplace and the price of beef on the hoof, tends to be narrower than it otherwise would be. Conversely, when the price of live cattle is dropping, as is now the case, it is easier for retailers to sustain prices at the high level than to lower them, then raise them back up again when live cattle increase.

I think there is this lesson to be learned from this fact that is constantly demonstrated in the marketplace: that is, that we can expect, in a market which is characterized by declining live cattle prices, that the spread will be greater. Many stock men are anxious to find out the reasons for the depressed price of what they have to sell, which primarily is beef on the hoof.

We look around for scapegoats. We look around for people to blame.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. GRIFFIN. Mr. President, will the Chair recognize the junior Senator from Michigan?

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. I yield to the Senator from Wyoming.

Mr. HANSEN. I thank the distinguished Senator, the minority whip, and express my appreciation to him.

Mr. President, there probably is plenty of blame to go around everywhere. Certainly, there is no doubt that the price of beef in the supermarket could be lowered, and there would still be a nice margin of profit. I hope that the retail markets in America will take this step very shortly, because in so doing they could increase the consumption of beef; they could make it more accessible to all the people, and in greater quantities than before, by the simple tactic of lowering price, and at the same time could bring a measure of relief that is sorely needed now to the livestock industry.

If the financially disruptive experiences of the cow business continue it certainly follows that there will be less beef down the road for all Americans. I say that because no one wants to stay in a business that is losing money and that is precisely what has been happening to the cow business for a number of months.

I think the President of the United States should exercise the authority he has under the import quota law passed in 1964 to halt the flow of imports that have been rejected by the rest of the world, almost, and now are being diverted to be sold here in America.

What has been happening is that Japan had built up a rather significant trade in the beef business. There is a great appetite developing among the Nipponese for beef and it was being imported in great quantities, but with inflation reaching the proportions that it has in Japan, the Japanese have embargoed the importation of beef, for all practical purposes, to that country. This has happened also in the European Common Market. So today we find other countries exporting the products only, for all practical purposes, to the United States of America.

This compounds the problem of the livestock men and results in the fact that at the end of this year, 1974, in all probability, 7 percent of the beef that is consumed in America will be imported beef. On top of the very serious oversupply situation that we now have, this will be too much and it will mean there will be further bankruptcies throughout Cattle Land, U.S.A., and we can expect to find

less beef produced in the future to satisfy the appetites of all Americans.

Mr. President, I ask unanimus consent that a statistical analysis of the beef import situation and a copy of my telegram to the President requesting import restrictions be printed in the RECORD at the conclusion of my remarks.

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

BACKGROUND INFORMATION ON MEAT IMPORT SITUATION

MEAT IMPORT ACT

The Meat Import Act of 1964 operates from the base years 1959–63. Average annual production of beef, veal, mutton and goat during that five-year period is weighed against average annual imports of fresh, frozen and chilled beef, veal, mutton and goat during the same period. By using these two five-year averages, the government comes up with a factor of imports representing 6.7% of U.S. production.

Each annual import quota figure is determined by taking a three-year moving average of U.S. commercial production of beef, veal, mutton and goat and applying the 6.7% factor. For example, the 1974 quota is arrived at by calculating U.S. commercial production of beef, veal, mutton and goat for 1972, 1973 and 1974 (estimated). An average is struck for these three years, and the 6.7% factor is applied, resulting in the quota figure of 1,027,900,000 pounds (product weight). The same procedure is followed annually.

MEATS COVERED BY MEAT IMPORT ACT OF 1964

[Million pounds]

Year	Import quota	Trigger (110 percent)	Actual imports
1971	1,025.0	1,127.5	1,132.6
1972	1,042.4	1,146.6	1,355.5
1973	1,046.8	1,151.4	1,354.4
1974	1,027.9	1,130.7	(1)

[1] 1974 estimates, USDA: Jan. 1 announcement, 1,575; Apr. 1 announcement, 1,575.

Under the law, quotas are not "triggered" unless estimated imports are expected to reach 110% of quota. For 1974, the "trigger" point is 1,130.7 million pounds (product weight).

The Secretary of Agriculture makes an estimate of imports for the calendar year beginning on January 1 each year, and he makes subsequent estimates on April 1, July 1 and October 1. Based on the estimates by the Secretary of Agriculture, the President may trigger the quota, suspend the quota or come up with restraint levels in accordance with the Act. Following is the language of that section of the law:

"(d) The President may suspend any proclamation made under subsection (c), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

"(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic livestock industry;

"(2) the supply of articles of the kind described in subsection (a) will be inadequate to meet domestic demand at reasonable prices; or

"(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsecion (a) will be carried out.

"Any such suspension shall be for such period, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection."

With meat prices increasing, the President suspended import quotas in mid-1972. The restraints were suspended again in 1973. In early 1974, the President announced that quotas would be suspended again during the current year. Imports for 1974 had been estimated at 1,575,000,000 pounds, compared with the "trigger" level of 1,130,700,000 pounds and actual 1973 imports of 1,354,400,000 pounds (1,845,100,000 pounds carcass equivalent)—the previous record year.

Beef accounts for more than 97% of the meat imports subject to the Import Act.

On July 1 and again on October 1, the Secretary of Agriculture will issue updated estimates of 1974 imports. Under the law, the President must consider the "importance to the nation of the economic well-being of the domestic livestock industry" in making his decision on further quota suspension or reimposition of restraints.

1974 MEAT IMPORTS

In the first four months of 1974, meat imports subject to the law totaled 396,700,000 pounds, up 2% from 1973. In addition, there were an estimated 115 to 120 million pounds of imported meat in the U.S., in cold storage under bond to the shipper, and not yet included in reported import data.

Most of the imported meat is boneless manufacturing-type beef which competes with U.S. cow beef and other non-fed beef used in hamburger and similar products.

The leading exporters of meat to the U.S. so far this year are Australia (148.5 million pounds through March), New Zealand (46 million), Costa Rica (22.4 million), Ireland (17.5 million) and Mexico (14.8 million). Amounts from the different countries may vary from year to year, depending on where they can obtain the highest price. Ireland, for example, sharply decreased its sales to the U.S. in 1973 and then increased its volume by eight times in the first quarter of 1974, when previous market outlets were closed. Thus, most of the exporting countries are a less stable source of supply for the U.S. than are domestic producers.

CURRENT STATUS OF IMPORTING NATIONS

At present, the U.S. is the only major beef-eating nation in the world with its borders completely open to beef imports. Japan, European Economic Community countries and Canada have banned or restricted imports in order to protect their own livestock producers and their balance of payments positions.

With other markets largely closed, the major exporting nations are expected to "dump" their surplus beef on the U.S. market.

FEDERALLY INSPECTED U.S. MEAT PRODUCTION, 1974 TO DATE

	1974	Change from 1973 (percent)
Meat, through June 1 (million pounds):		
Beef	8,576.2	+6
Pork	5,563.7	+7
Total red meat	14,410.3	+6
Poultry, through May 15	3,673.0	+10
Cattle slaughter, through May 11 (thousand head):		
Cows	2,139.6	+7
Bulls	219.2	+8
Heifers	2,651.6	0
Steers	6,456.0	+3
Storage stocks, Apr. 30 (million pounds):		
Beef	505	+40
Pork	395	+59
Poultry	381	+111

Total beef and meat production through May is at record levels, even ahead of the previous highs in 1972. Storage stocks of beef and other meats also are at new highs.

The increase in cow slaughter is attributed in large measure to cow herd reductions brought on by economic conditions in the industry, and further reductions in the nation's basic beef cow herd are expected if financial losses continue.

Total beef imports—not just those subject to the Meat Import Act—have been running at 7 to 8% of the total U.S. beef production in recent years. In 1973, imports were 8.5% of total beef and veal production of 21.4 billion pounds.

CATTLE INDUSTRY COSTS AND PRICES RECEIVED, 1974, WITH COMPARISONS

	1974	Year ago	Percent difference
Costs:			
Corn, Chicago (bushel), May 30	$2.74	$2.42	+13
Hay, U.S. average (ton), May 15	$50.80	$40.60	+25
Index of prices paid by farmers (1967=100), May 15	165	143	+15
Feed index, Apr. 15	167	139	+20
Fertilizer index, Apr. 15	178	112	+59
Seed index, Apr. 15	232	156	+49
Interest index, Apr. 15	204	179	+14
Wage rate index, Apr. 15	173	157	+10
Feeder livestock index, Apr. 15	152	185	−18
Average prices received (hundredweight), June 4:			
Choice steers, Omaha	$38.50	$46.75	−18
Utility cows, Omaha	$25.00	$32.90	−24
Choice feeder steers, Oklahoma City	$32.00	$55.80	−43

Except for feeder cattle purchased by feeders, most agricultural inputs now cost substantially more than a year earlier. Cattle prices, meanwhile, are sharply lower than a year earlier and even farther below 1973 highs.

ECONOMIC SITUATION

Feedlots

Most cattle feeders have been in a loss position since last September and have lost most or all of the equity invested in cattle sold during that period. The feeding industry has lost more than $1.5 billion in the last 9 months.

Current breakeven price on fed cattle is estimated at an average of $49.00 per cwt. Based on an average sales price of $39.00, this means the industry is still losing approximately $105.00 per head on cattle currently being marketed.

Average cost of grain on feedlot cattle at this time is 48¢ per pound.

Cow-calf operations

Because of feeder cattle prices sharply lower than the highs of 1973, many cow-calf operators (including ranchers and farmers) are expected to have 1974 gross incomes which are down by 50% from 1973. At the same time, their total costs are up by at least 20%.

Breakeven prices for 450-lb. calves were recently estimated by the Montana Extension Service at $243.50 per calf. This compares with traditional cost estimates for the area of $130 to $150 per calf.

The current price for a 450-lb. calf in Montana averages $175.00.

Numbers of feed cattle on grass are estimated at 15% over a year ago. Many of these cattle, plus liquidated cows, may be sold for slaughter off grass, rather than going into feedlots for finishing. This non-fed beef will have to compete with the increased amounts of imported beef.

U.S. IMPORTS OF MEAT SUBJECT TO MEAT IMPORT LAW, APRIL 1974 WITH COMPARISONS[1,2]

[In thousands of pounds]

Country of origin	April		January–April		Percent change from 1973	
	1973	1974	1973	1974	April	January–April
Australia	40,473	35,785	173,246	184,241	−12	+6
New Zealand	27,267	24,601	75,537	70,448	−10	−7
Costa Rica	9,105	4,857	31,058	27,256	−47	−12
Mexico	2,953	3,762	32,425	18,535	+27	−43
Nicaragua	6,512	2,227	21,274	16,760	−66	−21
Canada	4,056	2,072	13,903	14,148	−49	+2
Ireland	612	9,108	2,614	26,627	+1,388	+919
Guatemala	2,582	1,938	16,028	12,405	−25	−23
Honduras	2,523	3,416	14,098	14,178	+35	+1
Panama	98	337	1,116	1,257	+244	+13
Dominican Republic	1,376	336	5,569	2,993	−76	−46
United Kingdom		582	114	805		+606
Haiti	77	155	647	667	+101	+3
El Salvador	292	2,239	3,167	6,365	+666	+101
Belize						
Total[3]	97,926	91,414	390,796	396,686	−7	+2

[1] Preliminary.
[2] Fresh, frozen, and chilled beef, veal, mutton and goat meat including rejections. Excludes canned meat and other prepared or preserved meat products.
[3] May not add due to rounding.
Source: Livestock and Meat Products Division, Foreign Agricultural Service, U.S. Department of Agriculture.

BEEF IMPORT STATISTICS—MEATS COVERED BY MEAT IMPORT LAW OF 1964

[In millions of pounds]

	Quota	Trigger (110 percent)	Actual
1971	1,025.0	1,127.5	1,132.6
1972	1,042.4	1,146.6	1,355.5
1973	1,046.8	1,151.4	1,354.4
1974	1,027.9	1,130.7	

Note: 1974 estimates—Jan. 1, announcement, 1,575; Apr. 1, announcement, 1,575.

JUNE 5, 1974.

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

Since last September, American cattle feeders have lost more than $1.5 billion. They are in desperate trouble, and the 1.55 billion pounds of imported meat expected to flood our market this year is compounding a critical situation. The expected import level this year of seven percent of domestic production is too high. The quotas called for by the 1964 Meat Import Quota Law should be immediately imposed.

I urgently request that you move immediately to impose restrictions on imports of beef. Japan, Canada and the Common Market countries are turning away beef shipments, and it is imperative the United States act to prevent the dumping of these shipments on our own depressed market. An industry seriously weakened today cannot provide a sufficient and reasonably-priced supply of meat to consumers tomorrow.

CLIFFORD P. HANSEN,
U.S. Senator, Wyoming.

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

Mr. HANSEN. I am happy to yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I think it is extremely important and very necessary that the import quotas on meat be reinstituted. We are facing the most severe situation in the livestock industry that we have experienced in the memory of the present generation. I think the Government of the United States has a very special responsibility in this matter.

There are cattle feeders who have taken such a great loss that some of them will have to sell their land. Others have suffered a loss running into great sums, losses from which they never will recover during their lifetime. There will be situations where the local banks will not be able to provide the credit for them to carry on. Cattle prices have gone down tremendously.

Less than a year ago prime steers were selling in Omaha for as high as $57 a hundred. That price is down in the thirties now.

It was reported to me that a load of prime steers was offered for sale at Sioux City. All day went by and there was no offer. Finally this load of 25 or 26 head was sold for $30. That is 30 cents a pound, and the purchaser was a representative of a dogfood manufacturer.

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

Mr. CURTIS. I yield.

Mr. MANSFIELD. Would it not be nice if the ultimate buyer of the beef, the consumer, could get the benefit of beef at that low price so that it could be used for human consumption rather than used as dog food?

Mr. CURTIS. The Senator is correct. As a matter of fact, the 30 cents a pound, by the time all the hide is taken away, the bones, and the offal, the meat is less than 50 cents a pound and it is the finest meat served in many of the steak houses in Washington or anywhere else.

I admit that in this particular load they were overweight. Someone might say the feeder should have sold before. Hindsight is always better than foresight. The market had been dropping and he held on too long.

Mr. President, this dislocation started with the placing of a ceiling, the price ceiling, on beef and not on other things. That causes dislocation from which we will be a long time recovering. The Cost of Living Council was wrong in putting it on and the Cost of Living Council is wrong in refusing to take it off, after everyone knowledgeable of agricultural situations asked them to do so.

Congress made a mistake in granting such authority that they could put such a ceiling on. The President made a mistake in taking the advice of the Cost of Living Council. In other words, the Government was in error, all of us.

This crisis situation must be remedied or it will have far-reaching effects. The losses taken by cattle feeders is so great that they cannot possibly pay ranchers very much for their feeders. If feeders go out of business what happens to the grain market? The Government should act and act now.

The distinguished Senator from Kansas (Mr. DOLE) and the junior Senator from Nebraska called on the President of the United States last week. We made two recommendations. One recommendation was that a White House conference be called and in that conference should be cattle men, feeders, representatives of the packers, both large and small, and the chief executives of the major retail chain stores.

The idea was to get them all in a room to do a little jawboning and to see that every segment of the economy that has something to do with the production and distribution of meat would do its part, and that each segment would share justly in the amount that the ultimate consumer pays. That recommendation has been taken. The conference will be held Monday. I commend the President of the United States for taking this action.

The second recommendation we made was that the existing meat import quota law be put into effect. It has been suspended. It was suspended at a time when there was a great deal of discussion about consumer boycotts. It was suspended at the time when there were demonstrators and placard carriers, threatening to boycott beef and other products. It was suspended with the idea it would lower prices. It has not done any of those things. It has been an invitation to foreign countries to ship great amounts of meat, particularly beef, into this country.

It did not do too much damage for several months, but in the meantime, because of their own economic situation, Japan has practically embargoed the importation into Japan of beef. The European economic community has done the same thing. So the other exporting nations, principally Australia and, to a lesser amount, New Zealand, have only one place that they can sell their meat, and that is here. And unless we do something, this importation is going to grow. Whether it grows or not, it stands as a cloud over the market of live cattle and live hogs.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CURTIS. I ask unanimous consent that I be recognized for 5 minutes more.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will withhold that request, I ask that I be recognized.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield my 5 minutes to the Senator from Nebraska.

Mr. CURTIS. I thank the Senator.

The price of cattle and hogs has always been reasonable, even at its highest price. Keep in mind, farmers do not sell beef; farmers do not sell pork; farmers sell cattle and hogs, and the price has never been too high.

The quota law was enacted in the middle 1960's. It is not an embargo. It gives foreign countries a just and what I think is a generous—too generous—share of our market. It even allows them to share in some of our growth in consumption. That law served us and I think well, from the time of its enactment until 1972, when it was suspended.

In retrospect, it should not have been suspended, but certainly now it should be reinstituted.

Mr. President, this is not an unfriendly act toward foreign countries. This is not an embargo. This is allowing a law to operate that has been on the books for 8 or 9 years or more. It is allowing a law to operate that every country in the world knows about. It is allowing a law to operate that permits enough meat to be imported into this country to be beneficial to the importers and to meet the needs and wishes of the American buying public.

As long as it is suspended, we are in a position of saying to the world, "We will take all the meat you can produce" at a time when Europe says, "We won't take a pound," at a time when Japan says, "We won't take a pound."

Mr. President, the request that the distinguished Senator from Kansas and I make of the President has had attention. It has been referred to the departments that have jurisdiction of trade matters. I refer to the Department of the Treasury and the Department of Commerce and the Department of State, the trading agency and, of course, the Department of Agriculture. The responsible officials in those agencies will be advising the President what to do.

I say to those departments that are going to advise him, "You betray the President of the United States if you do not advise him to reinstitute these quotas, because the economy of America demands it and because our foreign friends may ask us not to, but they will lose respect for us if we do not reinstitute those quotas."

I say to those groups who are going to advise the President, "Keep in mind that it was those groups, or some of them, that wrongfully imposed the price ceiling on beef." They are part of the problem. They caused the problem, in part. And, as a matter of fairness and justice, they should act now.

Mr. President, the American people believe that the reinstitution of these quotas will help. If they believe that, that is the way it is going to come out; and if their request that it be reimposed is denied, the reverse will be true. It will come out that way, and more meat will flow in here.

Mr. President, I hope that if the Executive does not act in reimposing quotas on the importation of meat within a very few days, the Congress will act.

I yield the floor.

INFLATION

Mr. HARRY F. BYRD, JR. Mr. President, the dominant problem facing our Nation today, in my judgment, is the need for the Federal Government to put its financial house in order. Most will agree, I think, that the major cause of the inflation we are having now is the continuing and accelerated deficits of the Federal Government. It is deficit spending, massive Government-spending programs, that are the major causes of the inflation which is eating so heavily into every wage earner's paycheck and into every housewife's grocery dollar.

If we are going to get the cost of living under control, if we are going to get inflation under control, we must first get Government spending under control.

Mr. President, one of the few men in the executive branch of Government who seems to be willing to tackle this problem is the Secretary of the Treasury, Mr. William E. Simon. I commend Mr. Simon for his forthright position and for the difficult task that he has undertaken. I know that his views are not necessarily in the majority among his colleagues in the executive branch.

Secretary Simon gave an interview to the editors of U.S. News & World Report. In it he made it clear that a slash in the massive Federal outlays is necessary if we are going to whip double-digit inflation.

The views expressed by Mr. Simon are, I think, so sound that I ask unanimous consent that the interview, published in U.S. News & World Report in its issue of June 17, 1974, captioned "A Way To Halt Inflation," be inserted at this point in the RECORD.

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

A WAY TO HALT INFLATION—THE TREASURY SECRETARY'S BLUEPRINT

Slash massive federal outlays if you're going to whip "double-digit inflation," says William E. Simon, who came to the magazine's conference room for this interview. Will Congress agree? Yes, he predicts, and tells why.

Question. Mr. Secretary, is this country going to be able to bring inflation under control?

Answer. We can do it. But it is going to require a curb on Government spending, and the key to that is better co-operation between the Congress and the White House. It also requires a will on the part of the American people to stop demanding or accepting the largesse of the Federal Government without paying for it. It's just as fundamental as that. We must work toward balance in fiscal and monetary policy in this Government.

I won't buy for one minute the idea that 75 per cent of the budget is uncontrollable. That is a cop-out. We've got to quit saying there's nothing we can do about it—that "Congress has passed the laws, and here they are, even if we don't like some of them."

I'm suggesting that we—both the Congress and the executive branch—had better take a brand-new look at this and begin to get some fiscal sanity back into the picture.

Question. Can you cite some examples of what you consider bloated federal spending?

Answer. I'm not going to be specific on recommendations right now because we're doing a budget study on the controllable side—as well as on the uncontrollable side, which is our big problem.

Question. Just what do you mean by "controllable" and "uncontrollable" items in the budget?

Answer. Essentially, "uncontrollable" refers to budget items provided for by laws passed in previous years. In other words, laws already on the books spell out some obligations for more than one fiscal year. For instance, Social Security payments are spelled out by law. As the number of persons receiving Social Security increases, the amount of money goes up, too, in almost uncontrollable fashion.

Question. Who is to blame for the expansion of the uncontrollable side of the budget?

Answer. You can't just point the finger at Congress—or at the White House. It has come from both sides. Anyway, what's the difference whether it was an Administration plan or a congressional action that locked in new spending on an ever-escalating basis? The fact of the matter is that it's there.

Congress is about to pass—I hope—a budget-reform bill which is a step in the right direction, but only a first step. Congressmen are now hearing from their constituents that something has to be done about the budget and about inflation. That's why we're seeing action. I met with the Republican side of the House Ways and Means Committee just the other day, and to a man they are hearing this from back home. It's a genuine ground swell.

Question. Do you mean that people are urging a cut in Government spending to deal with inflation?

Answer. Yes, sir—and these Congressmen say that this will be the most popular thing that they can do to get re-elected this year. They tell me that their people are simply fed up with the way the Government's budget shoots up year after year. It took this country 185 years to get to 100 billion dollars of annual spending in the budget. But it took only nine more years to get to 200 billion, and only four more after that to get to the third hundred billion.

Question. In the past when people talked about cutting federal spending they were for it as long as it didn't affect them—

Answer. Yes, in the past that's been correct. But in the past we've never had double-digit inflation. It's always been well under 10 per cent. But now that we're above that into two digits, people are scared. And if we wait another year or two to meet this head on, we'll be back in the same mess we are right now, only at a higher rate of inflation, because it's going to start from a higher base than the one we started at two years ago, which was 3 per cent.

It's the same with interest rates. Interest rates this time started up from 8 or 8½ per cent. During the credit crunch in '66, they started at 6 per cent.

Each year we're grinding more and more inflationary expectation and actual inflation into our economy, and if we don't begin to turn it around, not only on the fiscal side—on the spending side—but on the financing side of it, this country is headed for disaster.

The financing side is little understood. But it is staggering when you realize that borrowing by the Federal Government and its agencies today takes about 60 per cent of the funds raised in the securities markets.

Question. Do you believe that in an election year Congressmen are going to vote to cut Government spending?

Answer. I certainly do. For the first time we have a chance of doing something because of the double-digit inflation. If we ever had a chance to cut back, now is the time. I'm not saying we can balance the fiscal '75 budget [for the year starting July 1, 1974]. I don't think it's advisable to slam on the fiscal brakes that quickly. But we must make a step in that direction and then move toward balance in '76.

Question. How much of a budget cut would

be a step in the right direction? Roy Ash, Director of the Office of Management and Budget, has said you couldn't find as much as 5 billions—

Answer. It all depends whether one wants to take a look at the uncontrollables. You probably couldn't find 5 of 6 billions if you just wanted to look at the controllable portion of it. I'm talking about the uncontrollable portion of it. I'm talking about the uncontrollable side.

You're going to say, "Well, how do you get that done?" The answer is that you identify programs that are overfunded—whether it's food stamps or the many programs of the Department of Health, Education and Welfare—or wherever it is that the budget has grown tremendously.

Question. Don't you have to go to Congress, though, and get a change in the law?

Answer. That's right—you do.

Question. Isn't it a fact that every time the President has done that—on school lunches, milk programs, almost anything—he's been beaten down?

Answer. That's been true. But I'm not going to take the attitude: "Ah, hell, we've tried that before; it doesn't work." I suggest that it's never really been tried before with everybody's heart behind it.

Question. Are you suggesting a fundamental change in attitude toward things like the full-employment budget?

Answer. I am not a full-employment-budget man. I don't think 1 per cent of the people in this country understand the full-employment concept. It's a good concept, useful to those who fully understand it, but there are problems with how it is interpreted and how it is calculated.

For example, almost everybody agrees that a goal of no more than 4 per cent unemployment is unreasonable in view of the change in the labor force over the last 20 years. But what I am talking about is actually heading toward balance in the unified budget as we know it.

Question. Mr. Secretary, has the Administration's ability to deal with this in Congress been damaged by the Watergate mess?

Answer. I can honestly say—and I don't know anybody in this Administration who spends more time on the Hill and on the telephone talking to Congressmen than I do—that it hasn't bothered me one iota.

Question. You don't think the authority of the President has been eroded with Congress?

Answer. I certainly do not.

I'm suggesting that things have changed, and events are going to make Congress want to go in the budget-cutting direction because at this point in time it's the right thing to do politically. They're getting the ground swell from home. Double-digit inflation is a tax that's being levied on the American people, and they don't like it.

Let me tell you something: I think there's such a change in sentiment that we should put what you might call a "full-court press" on this whole subject and really fight to cooperate and get together. And I've talked to Democrats and Republicans alike on the Hill, and that is the attitude I find.

Question. Historically, hasn't inflation of the sort we have now been solved only by the country going into a recession?

Answer. I don't know that we can go back and say that every single time it's gone that way. I agree that the danger is there when you're relying solely on monetary policy to control inflation. But if we use fiscal policy to restrain federal spending and give monetary policy a chance to work, which Arthur Burns [Chairman, Federal Reserve Board] would certainly like to do, then we can lick this problem.

I'm a realist. I don't know that over the long run this great country will do all these things, but I'm only here once, and so shouldn't I try to get done what's right?

Question. Mr. Simon, how much is this out of your control in the sense that inflation is being imported through high prices for oil and other basic commodities?

Answer. Our energy policy will correct the oil problem over time. Until that time, obviously, we're going to be paying these high prices for foreign oil. But they're not going to triple again—we certainly know that. If anything, they're going to be lower a year from now, or even sooner, than they are right now. I'd bet on it, if I were a betting man.

Now, we haven't had a complete pass-through, yet, of this big run-up in oil prices. We won't see that until the end of the year. For example, in petrochemicals we have yet to see the full impact. And there isn't much that you can touch during the course of the day that isn't made in one form or another in the petrochemical industry. The high cost of oil is going to come out in the form of higher prices for toothbrushes, plastic cups, and so on down the line.

Question. What about wages? Now that controls are ended, will they leap upward and add to inflation?

Answer. My judgment is that while wage increases aren't going to be in the 15 to 20 per cent bracket, they are going to be significantly above the 5.5 per cent guideline that we had in effect the past couple of years.

Question. Does that mean you need a new incomes policy?

Answer. No, it most certainly does not, because if we learned anything from wage and price controls it is that they produce distortions and compound and postpone your problems.

What we must have is restraint on federal spending so that the Government won't be putting all this pressure on the economy and the money markets, forcing interest rates higher than they should be and keeping the inflation fires burning. This is what has to be reversed. This is fundamental. Then you can deal with shortages and other inflationary problems by acting rather than reacting.

Question. Are you worried that present interest rates—as high as 12 per cent or more—will restrain business borrowing enough to prevent recovery from the current slump?

Answer. There's a lot of talk about the slump, but actually it is isolated to energy-related activities. Automobiles are the prime case in point.

It's true that high interest rates are postponing borrowing. There's no question about that. But I'm not worried about too little capital investment. The McGraw-Hill survey shows an increase of 19 per cent in outlays for plant and equipment this year. The Commerce Department figure is 12.2 per cent. But whether it's 12.2 per cent or 19 per cent, the evidence is compelling that this is a source of great strength in our business outlook right through 1975.

Another point that we must stress as far as this inflation problem is concerned is that we have to give incentives to business to expand production of fuel, paper, steel and other commodities so that the U.S. doesn't have to rely on foreign nations for these key items.

Question. Do you have a plan that would do this?

Answer. One thing we're talking about is accelerated depreciation. It works, and it works quickly. This was proven back in the Korean War. In the Treasury Department, we are taking a look at the various plans to expand production of these vital products. We're discussing whether it should be done on an over-all basis or whether it should be done by specific industries.

Question. What is your position on an income-tax cut for individuals?

Answer. It would be highly inflationary.

All it would do is fuel a demand that's already excessive. People would just go out and buy the small-ticket items that are already in short supply.

Question. Do you think Congress will vote against a tax cut for individuals, but approve reductions for business?

Answer. We're not talking about cutting taxes for business. We're talking about accelerated depreciation and other incentives for some of our basic industries to assure the consumer that he can get commodities at a reasonable price, rather than forcing him to rely on foreign sources at a much higher price.

Don't misunderstand me. I'm not saying it will be easy to get this through Congress. But we're hopeful, and we're talking with the leaders on the Hill. We're going into this study with the encouragement of Mike Mansfield, the Senate Majority Leader, and Speaker Carl Albert in the House. Senator Hugh Scott and Representative John Rhodes, the Republican leaders in Congress, are taking part in these discussions.

Question. Mr. Simon, economists seem to be in disarray. Many are confessing they're baffled by this double-digit inflation—that many of the old rules don't seem to apply. How can anybody speak with much confidence of what the cure is?

Answer. I'm sorry, but I don't buy the first part of your comment—that those in the economic profession are in such disarray that they can't find agreement. The economists whose opinions I respect, whether it's Paul McCracken [a former Chairman of the Council of Economic Advisers] or many others, are in fundamental agreement that, leaving the politics of the situation aside, for a sustained period of time there is one fundamental thing that's needed, and that's prudent fiscal and monetary policies.

Let me tell you something to make my point: Go back and trace America's prosperity. At the end of World War II it was the only country in the world with any real power, economically and otherwise. As the rest of the world recovered its economic strength, however, the dollar became overvalued. We should have changed that somewhere around the mid-50s or late '50s, but we continued with a fixed exchange rate and an overvalued dollar. And as we were creating all of those deficits and sending the IOU's around the world, you could find a lot of economists who were predicting—some almost to the year—that a fundamental change would have to be made in our international monetary system. And they were correct; some economists, at least, understood what was going on. A lot of them talked about it, but it wasn't very popular to print what they said.

I can give you a score of statements I made before I came to Washington. I haven't changed my tune one iota.

Question. Some well-known economists are saying that the 1975 federal budget, which you say must be cut, is too tight—

Answer. Sure. There's a group who believe that the American people have grown to expect each year that all of their needs are going to met by Washington, and "let's just ignore the inflationary consequences."

It isn't going to be easy to turn this thing around. But, at this particular point in time, I believe sincerely we have an opportunity to do it, due to the unprecedented inflation rate and interest rates. Now that we've got people's attention, damn it let's do what's right.

Question. But what is right? President Nixon's proposed national health program would add 5 or 6 billion dollars to the budget. Are you going to drop the program and say, "Well, we're at a point where we can't take on anything that costly?"

Answer. I think you're going to see some of that, but I wouldn't pinpoint a particular program, because these things are being worked out right now. I don't know what

the President will come down on. But he'll make the individual decisions—that I'll promise you.

We've got to slow the growth of the budget to a pace that will provide normal expansion of the economy, rather than the inflationary growth rate that started with the "guns and butter" policy in 1964 during the Vietnam War. Some say this will entail self-sacrifice on the part of the American people. My answer is that when you're dealing with a budget as massive as 305 billion dollars, there is enough latitude to get back to fiscal responsibility without sacrifice.

Question. Is your attitude toward the budget accepted within the Administration generally?

Answer. I'll put it this way: I'm making significant progress compared to where I started a month ago when I became Secretary of the Treasury. At that time, the whole idea was considered ridiculous. And I'm picking up a lot of support in Congress.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LEAKS BY STAFF MEMBERS

Mr. HUGH SCOTT. Mr. President amidst the miasmic fogs of the Washington scene, every now and then the light of reason shines through and someone points to what is actually happening rather than what someone outside of Washington might believe was happening at any given moment.

Here in Washington, D.C.—and I am told that "D.C." stands in some people's minds for the "District of Confusion"—we are in the hands of the magic men, those who would misdirect our eyes, as I have noted before, from the truly important to the merely trivial. And yet there are people who see through this sort of thing, and one of them is Archibald Cox, the former Special Prosecutor in the Watergate matters. At Cambridge, Mass., which is the heart of the area of the lifted eyebrow, Mr. Cox strikes through to a matter which has not often been referred to on this floor. I have not at any point criticized the Ervin Committee, the Watergate Committee, and I have determined to do my best not to do so. They are composed of eminent and honorable Senators. They worked very hard and their work performed a national service without question.

At the same time, I think it is now necessary to point out that despite the best intentions of Senators, there are staff members who leap unwarrantedly to the conclusion that they are really the Senators themselves, or at least that they know more than the Senators—and I am not disputing whether that is correct or not—but they certainly rushed rapidly to news story sources in order to secure the publication of those matters which Senators have decided in and out of committee are confidential and ought not to be published.

The selected leaks are being used as a matter of policy. For example, when the Senate Watergate Committee decided not to publish a report at this time, members of the staff evidently decided that they knew more than the Senators and decided to publish the report in selective form and from selected and favored sources in order to do maximum damage, because if the evidence in a given matter was not sufficient, a part of the evidence would be made to serve for the whole in order to make the American people think that the real evidence was there.

No discipline has been exercised in this matter and no sanctions have been imposed; therefore, some members of the staff have felt free to act, as was stated in Stephen Leacock's Gertrude the Governess:

> He flung himself from the room, flung himself upon his horse, and rode madly off in all directions.

This tactic is offensive, and it was offensive, to Mr. Archibald Cox who, in Cambridge on June 11, compared some of the tactics of the committee, with special reference to the staff, with those used by the late Senator McCarthy in the 1950's.

In discussing this McCarthyism, he also criticized intellectuals and the press for not pointing out the similarities and for not denouncing them. I quote now from Mr. Cox:

> Should not the same objections be raised when the staff or possibly some members of the Ervin Committee leaked the result of an incomplete investigation, give out the accusatory inferences it draws from secret testimony, and even releases proposed findings of guilt upon men under indictment and awaiting trial?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, I will yield my 5 minutes to the Senator.

Mr. HUGH SCOTT. Mr. President, I thank the distinguished Senator.

At this time, if I may, I ask unanimous consent that I may proceed for 10 minutes, if there is no objection.

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

Mr. HUGH SCOTT. Mr. President, I ask generally that all Senators may speak for 10 minutes, I being the only Senator involved at the moment. [Laughter.]

Mr. Cox went on:

> Procedural fairness does not depend on whose ox is being gored.

He maintained that institutional questions of impeachment are important, and that one of the institutional questions arising from impeachment was "our confidence in our institutions."

He said that this meant "that our self-confidence hangs in the balance," adding "The manner in which the proceedings are conducted, the role of reason, the degree of impartiality, the degree of effort to achieve justice will affect our self-confidence far more than the ultimate vote."

I agree with Mr. Cox. I think the record shows that I supported him when he was here, and I am supporting his views now.

The Wall Street Journal, in an editorial entitled "Mr. Kissinger Fights Back," refers favorably to Mr. Cox's speech and makes this point:

> We were struck by the counterpoint, and particularly so in the context of one widespread reaction to Mr. Kissinger's threat—that he was overreacting, that he was tired, even that he was petulant over the lack of celebration of his Middle Eastern exploits. We think the matter has an importance transcending any one personality, and that Mr. Kissinger's instinct was right; the charges against him deserved a serious and even extraordinary reaction.

I will not read the entire editorial, but I ask unanimous consent to include it at the end of my remarks.

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

(See exhibit 1.)

Mr. HUGH SCOTT. But the conclusion is that—

> Admittedly it is difficult to tell precisely where reality does end, and perhaps the charges against Mr. Kissinger do deserve more exploration. But of this we are quite sure: At some point a corrective will be necessary, and this cannot take place until someone like Mr. Kissinger starts to fight back.

The Foreign Relations Committee will consider, will continue its review of, Dr. Kissinger's earlier testimony given in open hearing, closed hearing, in special testimony offered to a special subcommittee consisting of the Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE).

We found nothing to criticize. The Secretary was confirmed by a vote of all but one by the committee.

We heard all of these things, so far as I can now recall, which have been brought forward belatedly as flash news, late news, new news—most of it is very old news to the committee; an item here, an item there, which crops up. Most of them are semantic interludes on which a story is constructed. Most of them are built on a 1-pound skeleton with 200 or 300 pounds of synthetic flesh. Most of it turns on the difference beteen initiated or originated or referred or proposed.

Some of it turns on alleged material which cannot be rebutted, since the person involved is no longer alive. But none of it really changes the facts which we heard, and when we hear Dr. Kissinger again, if we hear from the Department of Justice or from any member of the committee what is involved, I would be in favor of releasing all of the material that does not involve strictly national security matters, or that does not affect the rights of third persons.

I agreed to the release of that part of my questioning to the House Judiciary Committee. We went through this 2 months ago. There was never a leak from our committee. But it did not get over into the bucket of the House Judiciary Committee long enough for that committee to reach the bottom of the bucket before it leaked out. Selectively, of course; inaccurately, of course; unwisely, certainly. And, of course, all of this contributed to the misleading of the public.

Aside from being unfortunate, this kind of thing is a disgrace. The Secretary is engaged on a mission of peace. He has

done the most miraculous job of any Secretary of State in modern times in advancing the cause of peace in the world. Where there was killing, he has brought life. Where there was slaughter, he has brought disengagement. Where there was fear, he has brought hope. And yet all of this would willingly be sacrificed by some of his detractors for the sake of a semantic difference as to whether or not Dr. Kissinger initiated certain surveillances.

This makes no sense at all.

I remember a householder neighbor of mine whose house was broken into, and he rushed out and fired three shots. I rushed down just in time to see the offender arrested and then escape from the police. Well, he got away, so they promptly arrested my neighbor for the possession of a firearm without a license.

This situation is a little bit similar to that. It is as if a householder finds his home vandalized, and instead of looking for the vandal, the householder is arrested.

What is important here is, Are there secrets which the Nation is entitled to regard as such? If so, is it proper to seek to preserve the confidentiality of that information? And if it is proper, then what attempts should be taken to stop it? And then, are those steps proper?

The facts here are that Dr. Kissinger testified before our committee and publicly said in the press conferences that he had great concern, because some 10,000 classified items had escaped by way of the Pentagon Papers. Without regard to whether some should or should not have been classified—and I do not pass on that—he was concerned. He was obviously concerned, and he was greatly concerned. There was a meeting. The meeting was with the President, the Attorney General, and the then Director of the FBI.

One of the others present suggested electronic surveillance. Dr. Kissinger, who had only been in the Government 4 months and did not know the details of the way in which intelligence operations work or are protected, was instructed to stay within certain categories established under the electronic surveillance procedure, and was requested to supply names.

He supplied some of the names in this case. The names of some of the newspapermen, to my recollection, were not supplied by him. Then the committee met. It met several times and considered the matter carefully, and the conclusion was that there was not anything to the charges brought against Dr. Kissinger.

Then, lo and behold, while he is in the midst of a mission of peace, various people proceed to try to find something to write about, because most of the Watergate story itself has been rehashed ad infinitum and ad nauseam, and most people, I expect, have long since stopped reading most of it. That may be unfortunate, because it is well that we all be informed.

But the search for something new, and especially the search for a shining target, proved irresistible, and so it was decided that somewhere, somehow, maybe Dr. Kissinger could be brought down.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

Mr. GRIFFIN. Mr. President, if I may be recognized, I yield such portion of my 10 minutes as the distinguished minority leader may require.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me to interrupt, I ask unanimous consent that there be no time limitation during the remainder of the period for routine morning business today.

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

Mr. HUGH SCOTT. I thank the distinguished Senator from West Virginia.

I am not suggesting a conspiracy at all. I am simply suggesting that in the search for something to write about, there was something less than restraint operating here. There was something less than a balancing of the priorities. There was something less than a sufficient concern for the prestige of the United States and its Secretary of State at a delicate time. There was, therefore, something less than I personally would have liked to see.

I have no concern about Dr. Kissinger's integrity. More than a majority of the Senate have already gone on record to that effect today and yesterday; and more than a majority, by far, of the American people feel that way. The mail coming in is overwhelmingly supportive of Dr. Kissinger in that regard, and I suspect there will be more of it.

So I think the people who thought they had a big story have gone too far. I think it is regrettable. I do not know; if I had been a journalist I might have submitted to the same temptation.

All I am asking for now is a little restraint. Let the committee meet. Let them comply with Dr. Kissinger's request for a continuance of this review that we thought we had ended 2 months ago when we had heard virtually everything that has now been repeated, and then let the committee make its report; and when the committee has made its report, let us, for Heaven's sake, assume that "a thing done has an end," as James Branch Cabell used to say.

A thing done has an end. Let us not continue to hound, harass, and pursue the Secretary of State of the United States as he attempts to carry on the foreign policy of the United States in following after the ways that lead to peace. Let us have some respite for decent citizens in this country, if a responsible committee acts responsibly and makes a responsible report, as I am certain they will do.

I have great regard for the chairman of that committee and for all of its members, and I am certain that what the committee does will be a complete and careful investigation. And when it is made, I am myself convinced of the outcome. But once it is made, let us, for Heaven's sake, not have any more leaks from the other body in the House Judiciary Committee. Let us not have any more leaks from the zealous honorarium-seeking staff members of the Senate Watergate Committee. Let us, for Heaven's sake, try to look for evidence and facts rather than innuendo, rumor, indiscretion, undisclosed sources, unproved statements, and a general attitude that the facts do not matter.

So I have delivered myself of a small peroration.

EXHIBIT 1

MR. KISSINGER FIGHTS BACK

About the same time Henry Kissinger was holding a press conference in Salzburg and threatening to resign, former Watergate prosecutor Archibald Cox was speaking to the Harvard Chapter of Phi Beta Kappa, warning that some of the leaks of Watergate material smack of the tactics used by Senator Joseph McCarthy in the 1950s.

We were struck by the counterpoint, and particularly so in the context of one widespread reaction to Mr. Kissinger's threat—that he was overreacting, that he was tired, even that he was petulant over the lack of celebration of his Middle East exploits. We think the matter has an importance transcending any one personality, and that Mr. Kissinger's instinct was right; the charges against him deserved a serious and even extraordinary reaction.

The Senate Foreign Relations Committee, which has already been over the evidence once, is now reviewing the question of how deeply Mr. Kissinger was involved in wiretapping in 1969 and 1970, and in particular whether his testimony before the committee was accurate. We do not pretend to know the definitive truth. Perhaps Professor Kissinger concocted the whole plot and forced it down the throat of J. Edgar Hoover, John Ehrlichman and other squeamish types. But somehow we doubt it.

It seems to us more plausible that the operation arose much the way Mr. Kissinger testified. He admitted, after all, that his concern over security leaks was an important input into the decision, and that he and his staff provided the names of some of those tapped. Given this, we have trouble understanding the significance of the debate over what seems to be a question of the precise point in this ongoing program any one tap could be considered to have been "initiated."

Human nature being what it is, we assume that Mr. Kissinger's account, and for that matter Mr. Kissinger's memory, paints his own role in the best possible light. Similarly, we would expect that other agencies and individuals involved in the wiretapping program would be protecting their flanks, trying to diffuse responsibility as widely as possible There would be any number of ways President Nixon could come to believe Mr. Kissinger asked for wiretaps, or that Mr. Kissinger's name could appear as the initiator in an FBI document. Perhaps the document has an "initiator" blank that needs to be filled in. No single piece of evidence is likely to be conclusive.

So you have conflicting accounts and conflicting memories about what almost certainly was even at the time an ambiguous course of events. Assuming that the truth of the matter runs something along this line, it is the perfect raw material for the kind of process that disturbs Mr. Cox. For at the moment we are in the grip of an alchemy that seizes on any available ambiguity and presents it in the worst possible light. In this atmosphere a semantic argument can easily become an accusation of perjury.

The alchemy of course arises from the climate of the moment. Everyone naturally interprets new events in the light of experience, and our recent experience has been Watergate. So a Congressman reading the documents, or a reporter writing about them, sees the available material in this context,

applying to its unconscious stereotypes evolved from a record of official dissembling. The application of such stereotypes often highlights an important part of reality, but typically at the cost of obscuring much else that is also true. An artificial order is imposed on an unordered reality.

When the stereotype of duplicity is applied to high officials it highlights some truth, but it also has an especially destructive potential. For the very purpose of high officials is to deal with questions that are both weighty and ambivalent. Even if miraculously there were no mistakes, there will always be ambiguities that can fit the theme of dishonesty. The stereotype can easily acquire an existence of its own, sooner or later carrying us beyond reality and obscuring more than it reveals.

Admittedly it is difficult to tell precisely where reality does end, and perhaps the charges against Mr. Kissinger do deserve more exploration. But of this we are quite sure: At some point a corrective will be necessary, and this cannot take place until someone like Mr. Kissinger starts to fight back.

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

Mr. HUGH SCOTT. I am glad to yield with this thought: That I have written two books in which I stated, "Never argue with the press." I want the press to remember that there come times when I forget even my own wisest judgment. I suppose I will live to regret this one.

I am glad to yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I commend the distinguished minority leader for the statement he has just made. He has spoken out not only on behalf of a distinguished and dedicated Secretary of State but his words have been for the benefit of this country and all the peoples of the world.

My question is this: Does the Senator believe that these attacks are made upon the Secretary of State at this time for the purpose of advancing investigations and ascertaining the truth, or does the Senator think there may be some other reason for these attacks upon this man?

Mr. HUGH SCOTT. I have no personal knowledge of the motivations. They certainly do not advance the search for peace. The truth was ascertained in our committee, and the future job of the committee is in accord with the supererogation, and so I do not really impute evil motives to anyone, but I feel that the whole exercise is unnecessary, or like the old wartime question, "Is this trip necessary?" In my view, this particular "trip" was not.

Mr. CURTIS. Does the Senator feel that this exercise is damaging to the efforts to establish peace in the world?

Mr. HUGH SCOTT. It certainly cannot be helpful because it has diverted the attention of the Secretary of State from the job he was appointed to do. It has also diverted the attention of the people of this country from the steps that are being taken to improve chances for peace. So, I do not think it has been at all helpful.

Mr. CURTIS. I thank the distinguished minority leader. It seems to me that regardless of the motives of those who have pounced upon the Secretary of State, the end result could be very damaging to this country and other countries as well; is that not true?

Mr. HUGH SCOTT. I think, if this continues, it will shake the confidence of people in other countries in American institutions, in the fairness of American institutions, and in their effectiveness, yes.

Mr. CURTIS. I thank my distinguished leader.

Mr. GRIFFIN. Mr. President, will the distinguished minority leader yield?

Mr. HUGH SCOTT. I am glad to yield but since each Senator has an unlimited time to speak, perhaps the Senator wants time in his own right; but I yield.

Mr. GRIFFIN. Mr. President, I commend the distinguished minority leader for speaking out as he has, and I wish to associate myself with his remarks.

If he has disregarded some of his own advice by venturing to criticize some segments of the news media, I am willing to join him in that predicament. He has performed a valuable and important service by blowing the whistle on the tactics of McCarthyism, as they have been characterized by none other than Archibald Cox.

It is wrong and unpatriotic to use such tactics against those who are accused of being Communists, but it is also wrong to use such tactics against anyone. None other than Archibald Cox has branded such tactics for what they are.

Mr. President, perhaps the unfortunate incident concerning Dr. Kissinger will serve a good purpose. I hope the speech of the distinguished minority leader will serve a good purpose by awakening or alerting people to the fact that there are some limits and bounds—that it is possible even for the press to go too far. I refer to the irresponsible use of leaks from the other body, from the staff of the Watergate Committee, as well as to other breaches of ethics and principle which are very disturbing.

In this morning's Washington Post, for example, there is published an article written by Jack Anderson entitled "Watergate Jury Called 'Exceptional,'" referring to the reported action of the grand jury in naming the President as an unindicted coconspirator.

His article reassures the American people that this was an outstanding grand jury.

He says:

We have broken through the secrecy which has surrounded the Watergate grand jury. Inside sources have described the closed-door drama; we have had access to actual transcripts.

Well, that is interesting, but it is also very disturbing that Mr. Anderson has had access to the actual transcripts of the grand jury proceedings which, by law, are required to be kept secret.

Unfortunately, there are a number of people in and out of Congress, and in and out of the news media, who should heed the words and advise of the distinguished minority leader today.

Mr. President, I ask unanimous consent that the article referred to be printed in the RECORD.

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

WATERGATE JURY CALLED "EXCEPTIONAL"

(By Jack Anderson)

The American people are entitled to know more about the historic grand jury that named President Nixon an "unindicted coconspirator" in the Watergate crimes.

The 23 grand jurors, selected from all walks of life, watched the Watergate drama develop behind guarded doors. They heard the secret testimony; they listened to the presidential tapes.

Four were absent when the grand jury met on March 1. The remaining 19 voted for the first time in history to accuse an American President of criminal conspiracy. Were they fair to Richard Nixon? Or were they out to get him, as he has said of his accusers?

We have broken through the secrecy, which has surrounded the Watergate grand jury. Inside sources have described the closed-door drama; we have had access to actual transcripts. We are perhaps in a unique position, therefore, to assess this red-letter grand jury.

The 23 citizens—including an economist, a cleaning woman, a retired Army officer, an elevator operator, a receptionist, a taxi driver—were called together on June 5, 1972, to hear evidence of crimes in the District of Columbia.

Courthouse sources say one grand jury in ten is outstanding. This one, in the opinion of Assistant U.S. Attorney John Forney Rudy II, then in charge of the grand jury section, was "exceptional."

Most of the jurors were alert and responsive, with a keen sense of civic duty. At least one woman gave up her job to stay on the jury. They were well informed and asked sharp questions.

So when chief Watergate prosecutor Earl Silbert asked for an experienced grand jury, Rudy immediately recommended this one.

They had already served several weeks and could have begged off. "We asked whether they would be willing to sit on a case that might last five or six months," recalls Rudy. "They were not told it would be the Watergate case." Without hesitation, they agreed to stay beyond the normal period of duty.

The early transcripts revealed no hint of prejudice against the President. On the contrary, the grand jurors at first seemed to shy away from implicating the President in the Watergate horror.

We spotted many openings in the secret testimony, where it would have been logical to ask about his involvement. But in the beginning, the follow-up questions weren't asked, almost as if there were an unspoken wish to keep the President out of it.

As the evidence piled up, the feeling seemed to grow inside the grand jury room that Mr. Nixon was responsible at least for the Watergate atmosphere, that his own suspicion and hostility had infected the White House with a moral rot.

Occasionally, the growing outrage would surface. During a discussion of propriety, for example, a juror snapped: "Is 'proper' an obsolete word these days?"

Three jurors, in particular, began to ask questions aimed at the President. Other jurors wanted to call witness not on the prosecution list, who they thought might have knowledge of the President's involvement.

But most questions from the jurors were not at all loaded against the President. The best questions were asked by the gray-bearded foreman, Vladimir Pregelj, and a black postal clerk, Harold Evans.

The methodical Pregelj, a native of Yugoslavia and a naturalized citizen, had a gift for reducing the complexities down to simple, pointed questions.

The grand jurors were irritated with the special prosecutors, incidentally, for restricting the questioning. After the special prosecutors took over the Watergate case, they

stopped inviting the jurors to cross-examine witnesses.

The jurors had a high attendance record and put in long hours. Once they stayed in session until midnight and found the cleaning crew had locked them in. They had to pound on the doors to rouse a janitor to let them out.

They were scrupulous about the grand jury rules and kept the Watergate secrets locked behind the tightest lips in Washington. They were absolutely furious at us for publishing excerpts from the grand jury transcripts. They were highly upset, too, with the Washington Post's intrepid Watergate sleuths, Bob Woodward and Carl Bernstein, for attempting to question grand jury members.

The 23 Watergate jurors, a cross-section of the people of Washington, closely followed the case as it evolved from a foolish burglary into a plethora of dirty deeds. The cover-up came apart before their eyes. White House witnesses lied and cried. The high were humbled; careers were ruined.

In the end, they concluded that the President was implicated. Seven days after they named him an "unindicted coconspirator," we reported that they believed he was involved in both "the Watergate coverup" and "an alleged conspiracy to buy the silence of the Watergate defendants."

We even gave the nose count on March 7, reporting that "all but four of the 23 grand jurors (sought) some way to hold Mr. Nixon accountable for the cover-up" but "the prosecution informed them it would be impossible to indict a sitting President.

The best commentary was given by President Nixon himself, who declared over nationwide television on April 30, 1973: "It is essential that we place our faith . . . especially in the judiciary system."

Mr. HUGH SCOTT. Mr. President, I will conclude by referring to an old Latin maxim, because it is the absolute right of the press to pursue every avenue in order to seek the truth, to find out from all of us public officials everything that is legitimately to be found out, whether we like to tell it or not, and all proper and legitimate sources in pursuit of the news are the right of the press, and all of us must fight to preserve those rights.

I am urging only that kind of response that would protect others in their honor, their self-respect and their reputation, unless there exists a legitimate reason to attack it.

I have in mind the old Latin maxim, "Sic utere tuo ut alienam non laedas," which means, "So use that which is yours as not to injure the rights of another."

SECRETARY OF STATE KISSINGER

Mr. WEICKER. Mr. President, I would like to respond to some of the comments made here in the last half hour by the distinguished minority leader (Mr. HUGH SCOTT) and the assistant minority leader (Mr. GRIFFIN).

I have a deep respect and affection for both of these men. I have that respect based on their dedication to individual rights, the Constitution, and, indeed, everything this Nation stands for in the way of principle.

My concern today is not with the guilt or innocence of any individual, from the President on down. My concern is that we as a Nation understand what it is that we had, in the way of our principles, in the way of the Constitution, and in the Bill of Rights. What we need now is not a vote of approval for the Secretary of State, for the President, for Senator WEICKER or for any other Senator. Rather we must reaffirm our belief in the Constitution, and in the principles cited in that Constitution. That is what is important.

The title of President, the title of Secretary of State, the title of Senator mean nothing. The title of American means everything. The sooner those in high places and the American people understand that, the sooner we once again make alive the spirit, the concepts, and the principles that have brought greatness to the United States of America.

Before I get to the substance of my comments, however, I would like to point out that almost a year ago now, I voted against Dr. Kissinger's nomination to be Secretary of State. I did so not on the basis of his professional ability or mental capacity. At the time I stated he would make an outstanding Secretary of State, and I thought he had a brilliance that would assure him and this Nation, success in his endeavors.

I opposed his nomination because Dr. Kissinger did not exist in a vacuum. He was part of an administration with a widespread pattern of misbehavior, much of it based on national security affairs, involving the questionable use of wiretaps, surveillance, and other facilities of the various law enforcement and intelligence agencies.

My evaluation is no different today. Then as now, it is necessary that we have the truth.

I would also note that my following remarks are directed to Members on both sides of the aisle who have rather prematurely drawn certain conclusions on this matter.

First the press has every right to ask questions. It is fundamental to a free press. No point in espousing freedom of the press and saying "but." There is no "but" in the first amendment.

There is always going to be an adversary relationship between politicians and the press. I find myself involved in that as much as the President or the Secretary of State or anybody else. The job of the press is to dig, and one of the basic ways they get the truth before the American people is by asking questions. They have the right, in fact the duty, to ask anything—anything.

Dr. Kissinger is not a victim of biased news media. He is not the victim of the House Judiciary Committee. He is not the victim of the Senate Watergate Committee.

Dr. Kissinger is a victim of his own administration. He is a victim of the administration's policy of withholding information, it smacks of the same thing that we have been hearing for months and months wherever Watergate is concerned—rather than produce the facts, attack a biased news media or the prosecutors, or some congressional committee.

I would far prefer that the highest offices in our land, the executive branch of the Government, would be the ones to give us the truth. That is as it should be. That is what we had come to believe over the years. That is what we had a right to believe. But that has not been the case during the past year.

Can you imagine, Mr. President, if certain questions had not been asked by the press a year ago, if Watergate had been left to the executive branch, if the American public paid heed to the admonition that the media, in their investigating and reporting, can ask questions on anything but Watergate?

Two issues in the present matter are of particular concern to me. One is the question of leaks. The other is the tactic of equating those who seek the truth with treason and disloyalty.

We talk about McCarthyism, and I think I understand that phrase in its historical context. I also understand that equating dissent, and questions, and comment, with disloyalty and treason comes far closer to McCarthyism than anything done by those individuals or bodies or institutions that have been charged with recent investigations.

We hear also about the matter of leaks. I would like to set the record straight in this area, because it is a matter that can be documented.

I would prefer that the House Judiciary Committee conduct its hearings in public, a position I also took in the Senate Watergate Committee. Whenever we close the doors in this Nation, we lay ourselves open to the possibility of information coming out second hand, and that is second best. The American people deserve only the best when it comes to the truth of matters involving the highest national interest.

Let me also say that when it comes to the art of leaking, I would say that probably 50 percent is done by the committees and 50 percent by the White House. If you want to find out how to leak, read the transcripts, read the Senate Watergate Committee exhibits, the memorandum of Messrs. Buchanan, Magruder, Haldeman, and Colson, setting out in black and white just how you chop somebody to bits by leaking.

They know what this art is all about, and they practiced it. They practiced it time and time again, to defame embarrass, and destroy. The Ellsberg case is a classic example of the consideration given to the rights of others, insofar as this administration is concerned, and how, if you want to discredit, you do it via the leak route.

The business of leaking is deplorable, as is the conduct of business behind closed doors, especially where it provides really the only excuse the White House has for its course of conduct.

Now, the question obviously comes up as to whether I would approve of ending the Vietnam war or a peace settlement in the Mideast, if achieving such an end involved sharing of the Constitution just a bit. The answer is "No."

As I have said many times in the past, you are now getting to the hard questions as far as the American people are concerned.

Democracy is a terribly inefficient form of government, to end wars, to bring about peace settlements, or to bring about quiet at home. Mr. Brezhnev in Russia can do things we cannot do in this country. He can do them faster and

more smoothly. Our system of government does not work that way.

I repeat an incident told by Martin Agronsky about when he was interviewing Justice Hugo Black. The subject was a series of Supreme Court decisions which could be interpreted as favoring the criminal. Mr. Agronsky asked whether these decisions made it more difficult to convict a criminal.

Justice Black turned to Agronsky and told him to take a look at the Bill of Rights. Everything in there makes it more difficult to convict an American. The right to counsel makes it more difficult to convict. The right to a trial by jury makes it more difficult to convict.

I cite that story because it illustrates that the whole Constitution is based not just on what is good for society but what is good for the individual as well. It accentuates the individual, it accentuates one human being. That is what is precious in this country.

Obviously, if that is the priority, you have to sacrifice somewhere along the line, and the sacrifice comes in the matter of efficiency, in peace and quiet, rigid law and order. All of these things have to suffer to some extent.

But we have recognized that since the beginning and that is why this Nation is as great as it is. Because each individual has been allowed the freedom to bring about the best that was in them, rather than conform, and subject themselves to conformity.

Let us remember, we started the Vietnam war because we shaved the Constitution, and went around the end. I would not have wanted it ended by shaving the Constitution, and I do not want foreign policy successes anywhere, no matter how dramatic, by shaving the Constitution.

Once you establish that principle, "the end justifies the means." Where have we all heard that before? We heard about again and again after the presidential campaign of 1972. And that is what Watergate is all about.

I said in a speech at a commencement at Kent, Conn., a year ago that eventually the American people were going to have to make this choice, and it was going to be a very tough one to make. Whether or not they wanted to rewrite the Constitution, or whether they would insist upon following it and guarantee a greatness no other nation has ever achieved, much less sustained.

When I hear words like "disloyalty," "treason," applied to those who speak out against those in power, I am reminded of testimony that I heard not so long ago when certain officials in the administration, without any facts at hand, tried to plant the story that the Democratic Party and its candidate were associated with Communist groups, left-wing groups, and foreign money. When asked what their facts were, they said, "we don't have any."

We can achieve peace throughout the world without going outside the Constitution of the United States. I think in some way the Secretary of State has almost put the American people to an unacceptable choice and that is unfortunate.

Questions that were asked in recent days were not based on air. They were based on a record. This is not to say that the Secretary of State was guilty of ordering wire taps. That has not been ascertained. But answers are needed. I think it is important to point out that 1 year ago this matter could have been laid to rest. Because it was 1 year ago that the matter was before the Senate Foreign Relations Committee, and that committee was denied access to the necessary files in the FBI.

This matter did not come up 2 days ago in Salzberg, Austria. This matter came up in the United States almost a year ago, and because of the pattern and choice of the executive branch to withhold information, to withhold the truth, it all reemerges a year later.

We had better hope and pray that we still have the press and Congressmen and Senators and judges who are going to stand in there when the executive branch does not, to get the truth when the executive branch of Government does not. The executive branch of Government did not get the truth out on the table on this matter a year ago; and, yes, it hangs on, just as indeed some of the questions of Watergate hang on.

These questions are not kept there by the news media or the Watergate Committee or the House Judiciary Committee.

Let us not forget that if the President had put all the truth on the table, that would have been the end of Watergate investigations. The President of the United States, not a biased news media, keeps the Watergate Committee in business, and keeps the House Judiciary Committee in business.

Mr. President, I have to strongly disagree with many of the comments made in the last 48 hours. I realize that in the flush of great achievement it is unpopular to say anything negative. But I thought it important that certain reminders be made now, rather than allow important principles to be brushed aside.

I do not want the American people to regret the fact that they let a little bit of the Constitution float away at this moment, even though peace in the Middle East was achieved.

I think it is very important that we, in our priorities, hold our Constitution and all its principles in reverence and, above all else that we lay stress on the means we use to achieve our ends.

If we do this, we will then look upon dissent and questions not as disloyalty but as patriotism. Not the old-fashioned patriotism of keeping your mouth shut while everything around you is going wrong, but the guts to stand up and question, in an orderly and in a peaceful way.

That is a patriotism far better suited to these times than the patriotism of cliches and wearing the trappings of democracy while failing to understand it.

Mr. GRIFFIN. If the distinguished Senator from Connecticut will permit me, I have a couple of chores to perform on behalf of the distinguished majority whip.

AUTHORITY TO PRINT S. 3523, AND ADDING AN ADDITIONAL COSPONSOR OF THE BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3523, passed yesterday, be printed as passed, and that the name of the Senator from Missouri (Mr. EAGLETON) be added as a cosponsor.

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

ORDER FOR ADJOURNMENT TO 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 a.m. on Monday morning next.

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

ORDER FOR RECOGNITION OF SENATORS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, the following Senators be recognized, each for not to exceed 10 minutes, after the two leaders or their designees have been recognized: Senators DOMENICI, HUGHES, DOLE, HANSEN, MCCLURE, MOSS, HASKELL, ABOUREZK, TOWER, BIBLE, JACKSON, HUMPHREY, BENTSEN, CHILES, CLARK, and MCGEE; and that those Senators be followed by WILLIAM L. SCOTT of Virginia for not to exceed 15 minutes, and by Senator ROBERT C. BYRD for 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of the various Senators just named, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

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

ORDER TO CONSIDER H.R. 14832 ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon conclusion of routine morning business on Monday next, the Senate proceed to the consideration of H.R. 14832, the debt limit bill.

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

AMENDMENT OF NATIONAL LABOR RELATIONS ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from New Jersey (Mr. WILLIAMS), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3203.

The PRESIDING OFFICER (Mr. BARTLETT) laid before the Senate the amend-

ment of the House of Representatives to the bill (S. 3203) to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes which was to strike out all after the enacting clause, and insert:

That (a) section 2(2) of the National Labor Relations Act is amended by striking out "or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual,".

(b) Section 2 of such Act is amended by adding at the end thereof the following new subsection:

"(14) The term 'health care institution' shall include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons.".

(c) The last sentence of section 8(d) of such Act is amended by striking out the words "the sixty-day" and inserting in lieu thereof "any notice" and by inserting before the words "shall lose" a comma and the following: "or who engages in any strike within the appropriate period specified in subsection (g) of this section,".

(d) Section 8(d) of such Act is amended by adding at the end thereof the following new sentence: "Whenever the collective bargaining involves employees of a health care institution, the provisions of this section 8(d) shall be modified as follows:

"(A) The notice period of section 8(d)(1) shall be ninety days; the notice period of section 8(d)(3) shall be sixty days; and the contract period of section 8(d)(4) shall be ninety days.

"(B) Where the bargaining is for an initial agreement following certification or recognition, at least thirty days' notice of the existence of a dispute shall be given by the labor organization to the agencies set forth in section 8(d)(3).

"(C) After notice is given to the Federal Mediation and Conciliation Service under either clause (A) or (B) of this sentence, the Service shall promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the Service for the purpose of aiding in a settlement of the dispute."

(e) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(g) A labor organization before engaging in any picketing, striking, or other concerted refusal to work at any health care institution shall, not less than ten days prior to such action, notify the institution in writing and the Federal Mediation and Conciliation Service of that intention, except that in the case of bargaining for an initial agreement following certification or recognition the notice required by this sentence shall not be given until the expiration of the period specified in clause (B) of the last sentence of section 8(d) of this Act. The notice shall state the date and time that such action will commence. The notice, once given, may be extended by the written agreement of both parties.".

(f) Title II of the Labor Management Relations Act, 1947, is amended by adding at the end thereof the folowing new section:

"CONCILIATION OF LABOR DISPUTES IN THE HEALTH CARE INDUSTRY; INTERRUPTIONS

"SEC. 213. (a) If a labor dispute between a health care institution and its employees is not settled under the National Labor Relations Act, and in the judgment of the Director of the Federal Mediation and Conciliation Service threatens substantially to interrupt the delivery of health care, the Director shall create a board to investigate and report respecting such labor dispute. Such board shall be composed of such number of persons as to the Dierector may seem desirable: *Provided, however*, That no member appointed shall be pecuniarily or otherwise interested in any organization of employees or any health care institution. The compensation of the members of any such board shall be fixed by the Director. Such board shall be created separately in each instance and it shall investigate promptly the facts as to the labor dispute and make a report thereon to the Director within 30 days of its creation.

"(b) There is authorized to be appropriated such sums as may be necessary for the expenses of such board, including the compensation and the necessary traveling expenses and expenses actually incurred for subsistence, of the member of the board. All expenditures of the board shall be allowed and paid on presentation of itemized vouchers therefor approved by the Director.

"(c) After the creation of such board and for thirty days after such board has made its report to the Director, no change in the status quo, in effect prior to the expiration of the contract in the case of negotiations for a contract renewal, or in effect prior to the time of the impasse in the case of an initial bargaining negotiation, except either by agreement or within the final ten days notification as provided in section 8(g) of the National Labor Relations Act, shall be made by the parties to the controversy."

(g) Such Act is amended by adding immediately after section 18 thereof the following new section:

"INDIVIDUALS WITH RELIGIOUS CONVICTIONS

"SEC. 19. An employee of a health care institution who is a member of and adheres to tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment."

(h) The amendments made by this Act shall take effect thirty days after the date of the enactment of this bill.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, I move that the Senate disagree to the amendments of the House of Representatives to S. 3203 and agree to the request of the House of Representatives to S. 3203 and agree to the request of the House for a conference on the disagreeing votes of the two houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agree to; and the Presiding Officer appointed Messrs. WILLIAMS, RANDOLPH, PELL, NELSON, EAGLETON, HUGHES, HATHAWAY, CRANSTON, JAVITS, SCHWEIKER, STAFFORD, TAFT, and DOMINICK conferees on the part of the Senate.

AMENDMENT OF ARMS CONTROL AND DISARMAMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12799.

The PRESIDING OFFICER (Mr. BARTLETT) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12799) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. By request, I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. FULBRIGHT, SPARKMAN, MUSKIE, HUMPHREY, AIKEN, CASE, and JAVITS conferees on the part of the Senate.

FOREIGN DISASTER ASSISTANCE ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12412.

The PRESIDING OFFICER (Mr. BARTLETT) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12412) to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. Mr. President, by request, I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. FULBRIGHT, SPARKMAN, MCGEE, HUMPHREY, AIKEN, CASE, and JAVITS conferees on the part of the Senate.

FILING OF SUPPLEMENTAL MINORITY, OR ADDITIONAL VIEWS

Mr. ROBERT C. BYRD. Mr. President, the leadership was prepared today to call up Calendar No. 839, S. 2201, a bill to provide for settlement of damage claims arising out of certain actions by the United States in opening certain spillways to avoid flooding populated areas. The bill has been on the Calendar since May 22, 1974. The leadership was only informed at the time the Senate disposed of the bill, S. 1486, today, however, that there had been some understanding among the members of the committee that reported the bill S. 2201 and the staff thereof and Mr. BUCKLEY to the effect that Mr. BUCKLEY would have some additional time during which to file supplemental or minority views.

I merely make this statement at this point for the RECORD so that the committee staff will realize that it is difficult for

the leadership to schedule measures for action and keep the legislation moving on the Senate floor if such private understandings are had without consent having first been given from the floor for a delay in the filing of such supplemental, minority, or additional views.

I read from paragraph (e) of section 133 of the Legislative Reorganization Act, to be found on page 91 of the book "Standing Rules of the United States Senate," provisions of the Legislative Reorganization Act of 1946 to 1970, relating to the operation of the Senate:

If, at the time of approval of the measure or matter by any Standing Committee of the Senate, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than 3 calendar days in which to file such views in writing with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within and shall be a part of the report filed by the committee with respect to that measure or matter.

The committee report was appropriately and timely filed in connection with S. 2201. However, there was no consent request from the floor for additional time in which supplemental, minority, or additional views could be separately submitted. This oversight results now in a further delay before the Senate can take up the bill.

I do not make this statement in derogation of any Senator or any member of staff, but merely to call attention to the fact that if supplementary or minority or additional views are going to be filed separately from the report of a committee consent of the Senate must be obtained from the floor. Otherwise, the leadership, not knowing about such special arrangements, would be expecting to call up a measure on the calendar and may so announce, and then find that because certain views have not been filed and no consent given it is impossible to proceed with the bill. This was the case in connection with S. 2201.

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

Mr. ROBERT C. BYRD. Mr. President, before I yield I now ask unanimous consent to file the minority views on S. 2201. In addition to the minority views, I have been asked to submit agency views on the bill from the Office of Management and Budget and the Secretary of the Army and the Secretary of the Department of the Interior.

I ask unanimous consent that the minority views and agency views be printed in the RECORD.

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

S. 2201—MINORITY VIEWS OF SENATORS BUCKLEY AND BAKER

We oppose passage of S. 2201, as reported by the Committee on Public Works. This bill, we believe, represents an ad hoc decision that extends to some oystermen fishing the waters of Louisiana disaster benefits that are unavailable to the general public. We believe this bill would breach the necessary and long-established practice that holds the Federal Government free from liability for damages resulting from flood control activities, a practice, we might add, that was written into law in 1928 when the United States Government first undertook flood control projects on a major scale.

Specifically, this bill authorizes $5,000,000 to indemnify the Louisiana oyster fishermen for the value of oysters they would have harvested if the Bonnet Carre and Morganza spillways had not been opened in April 1973. These spillways were opened to divert Mississippi River flood waters away from New Orleans and out toward the Gulf of Mexico. The diversion of these fresh waters into normally saline waters led to the destruction of many oysters.

The Bonnet Carre spillway was authorized in 1928, with structural work completed four years later. Since then, it has been opened on four occasions: in 1937, 1945, 1950, and from April 8 to June 21 of last year, according to the Corps of Engineers. Control structures for the Morganza Floodway were completed in 1954. The opening on April 17, 1973, was apparently its first use as a floodway. It was closed and drained by July 31.

According to a brief field hearing in New Orleans on this legislation, oystermen began to lease State oyster tracts in the path of waters that would pass through the spillways only *after* construction of the spillways. Previously, they had leased areas farther toward the sea, land that was less susceptible to any impact from spillway openings.

Thus, the hearings indicate, the oystermen obtained these leases in apparent full knowledge that the spillways existed and that there was every possibility they would be opened in times of flood.

Because of the extreme flooding in the Mississippi Valley last year, the President declared many areas of Louisiana as major disaster areas. This declaration covered the parishes where most of the oyster damage occurred.

The President's declaration, of course, made all citizens of those parishes eligible for the full benefits of the Federal disaster relief law. Specifically, it made the oystermen eligible for unemployment insurance and disaster loans to pay costs related to damages, including repair and replacement of oyster planting machinery, reseeding the oyster beds, payments on oyster bed leases, interest on debts, taxes, insurance premiums, and family subsistence.

While 1,150 oystermen work in the parishes included in the disaster declaration, only 57 applied for disaster relief loans. To date, loans have since been approved for 21 of these oystermen under provisions of P.L. 93-237. These loans provide $5,000 in forgiveness and will cost the oystermen 1 per cent in interest.

We are solicitous of the plight of these oystermen. But it must be noted that they are already eligible to participate in the most liberal individual assistance ever provided to victims of natural disasters. This standard for assistance treats the Louisiana oystermen fairly, certainly as fairly as the Chesapeake Bay oystermen and others harmed by other national disasters. We do not believe it is necessary to go beyond the generous assistance already available .

A second, and probably more significant, argument against this bill is its erosive effect as a precedent. When the Congress first approved a major flood control effort by the Corps of Engineers in 1928, the Congress stated:

"No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place."

This language (Section 3 of P.L. 70-391; 33 USC Sec. 702(c)) has been upheld consistently by the Courts. It is construed to bar any action against the United States for design, construction, operation or maintenance of a flood control facility.

This law, furthermore, was in effect when oyster beds were seeded in the path of waters that would be released through the spillways in a major flood.

The purpose of this prohibition is clear: when the Federal Government undertook to control devastating floods in the major river basins of the nation, it was apparent that all flooding could never be stopped, despite the diligent and extensive efforts of the Corps of Engineers. Congress decided that to assure program efficiency, the Federal Government must insulate itself from the additional cost and harassment of compensating flood losses which might occur despite these efforts.

S. 2201 would seem to alter this thrust, setting the stage for allowing anyone to receive full compensation from the Federal Government for damages associated with flooding, if those damages are in any way related to the operation of a Federal project. As an analogy, the Federal Government might participate in the construction of a levee protecting a town. And that levee might work well, saving the town from vast and terrible flooding. But, that same levee might have the effect of diverting extra flood water onto adjacent agricultural lands. The precedent of S. 2201, we believe, might be used by the owners of that hypothetical farm land to say that they should receive compensation for any and all agricultural losses related to flooding. Such a policy would be unwise. It would destroy any incentive to the prudent use of areas prone to flooding.

The opening of the Bonnet Carre and Morganza spillways averted disastrous flooding in the populated area of New Orleans, Louisiana. Had the Mississippi flood waters not been diverted through the spillways, the waters would have dealt a tragic blow to the people and economy of Louisiana.

While we sympathize with the oyster fishermen who suffered losses we believe that the policy enunciated by this bill threatens the integrity of flood control law and could prevent work to protect other communities because of the threat of associated damage claims.

We believe present legislation treats the oystermen fairly, by recognizing that they are in fact the victims of the natural disaster that *required* the opening of the spillways, and by extending to them the full benefits accorded all other victims of the same disaster.

The Committee has received comment on S. 2201 from the Department of the Army, the Interior Department, and the Office of Management and Budget. Attached are those views, each in opposition to the bill.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 29, 1974.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of July 24, 1973 for the views of the Office of Management and Budget on S. 2201, a bill "To provide for the settlement of damage claims arising out of certain actions by the United States in opening certain spillways to avoid flooding populated areas."

The Department of the Interior and the Department of the Army in their reports to your Committee, have provided their reasons for opposing enactment. For the reasons set out in those reports, the Office of Management and Budget is also opposed to the enactment of S. 2201.

Sincerely,

JAMES F. C. HYDE, Jr.,
Acting Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. June 5, 1974.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our views concerning S. 2201, a bill, "To provide for the settlement of damage claims arising out of certain actions by the United States in opening certain spillways to avoid flooding populated areas."

We recommend that the bill not be enacted.

S. 2201 would provide for payment to oyster fishermen in the State of Louisiana for losses which would otherwise not be compensable by reason of 33 U.S.C. 702c, which specifically states that the United States is not liable in any way for any flood damage resulting from or by flood waters at any place.

We are not aware of any special reason for departing from generally applicable laws permitting compensation or disaster assistance to injured parties which would justify the relief to the oyster fishermen provided by the bill. Enactment of the bill could precipitate requests for similar relief legislation in other areas and circumstances.

Moreover, the provisions of the bill are generally vague and lacking in guidelines. For example, there are no criteria for determining the class of oyster fishermen entitled to consideration under the bill, what constitute losses, or what minimum or maximum allowances should be set.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN H. KYL,
Assistant Secretary of the Interior

DEPARTMENT OF THE ARMY,
Washington, D.C., May 30, 1974.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of the Army on S. 2201, 93d Congress, a bill "To provide for the settlement of damage claims arising out of certain actions by the United States in opening certain spillways to avoid flooding populated areas."

The bill as reported by your Committee to the Senate on May 22, 1974, would authorize and direct the President or his designee to receive, investigate, settle and pay all claims against the United States for losses incurred by oyster fishermen in the State of Louisiana in the destruction of their oyster crops as a result of the action taken by the United States in opening the Bonnet Carre and Morganza Spillways in Louisiana during 1973, including claims for reasonable expenses incurred as a result of the losses and interest on the principal amount of such claims computed at 6 per centum per annum from the date of such losses. The President or his designee would be limited in the settlement of these claims to determining (1) whether the losses sustained resulted from the action of the United States in opening the aforementioned spillways during 1973; (2) the amounts to be awarded as compensation for such losses; and (3) the persons entitled to receive such awards. Payment to any person of an award pursuant to the provisions of the bill would be deemed in full settlement and discharge of all claims of that person against the United States for the aforementioned damages arising out of the actions of the United States. The President would be required to report to Congress within two years of enactment of the bill regarding the character, equities, and amounts involved in each settled claim, together with findings and recommendations for each unsettled claim. The sum of $5 million would be authorized to be appropriated to carry out the provisions of the bill.

The actions of the United States in opening the Bonnet Carre and Morganza Spillways, as referred to in the bill, were undertaken by the Army Corps of Engineers during the spring flood of 1973. The Corps operated these spillways during the flood to accomplish the purpose which they are intended to serve, which is to protect the city of New Orleans and other areas in the State of Louisiana and to limit the flow of water to the safe capacity of the Mississippi River channel below Morganza. If this operation had not been carried out, existing levees could have been breached which would, in turn, have resulted in a substantial hazard to human life and catastrophic property damages.

Section 3 of Public Law 391, 70th Congress, approved May 15, 1928 (33 U.S.C. 702c) provided, in pertinent part, that "No liability of any kind shall attach to or rest upon the United States for any damage from or by flood waters at any place." This provision of section 3 of the 1928 Act has been consistently interpreted as an absolute bar to a judicial cause of action against the United States for recovery of any damages resulting from flood waters due to or in spite of Federal design, construction, operation or maintenance of a flood control project.

The case of *National Manufacturing Co. v. United States* 210 F.2d 263 (8th Cir. 1954) is noted as a leading case on the interpretation of section 3 wherein the Eighth Circuit Court of Appeals articulated the rationale of the section as follows:

[W]hen Congress entered upon flood control on the grand scale contemplated by the Acts [of 1928 and 1936] it safeguarded the United States against liability of any kind for damage from or by floods or flood waters in the broadest and most emphatic language. The cost of the flood control works itself would inevitably be very great and Congress plainly manifested its will that those costs should not have the flood damages that will inevitably recur added to them . . . [T]here is no question of the power and right of Congress to keep the government entirely free from liability when floods occur, notwithstanding the great government works undertaken to minimize them.

Undoubtedly that absolute freedom of the government from liability for flood damages is and has been a factor of the greatest importance in the extent to which Congress has been and is willing to make appropriations for flood control and to engage in costly undertakings to reduce flood damages. 210 F.2d 270, 271.

It is thus evident that the aforementioned provision of section 3 of the 1928 Act would bar recovery from the United States in any judicial action against the United States concerning any damages to the subject oyster fisheries caused by the Corps of Engineers operation of the Bonnet Carre and Morganza Spillways during 1973. Moreover, the Department of the Army believes that the congressional policy for enacting this immunity provision, as articulated by the court in *National Manufacturing Co.* (quoted above), remains worthy of our continuing support. Accordingly, we must oppose enactment of S. 2201 because we believe that its enactment would provide a very strong precedent for subsequent and continual erosion of the effectiveness of that policy whenever and wherever parties may alleges some particular flood damage due to or notwithstanding authorized Federal flood control activities.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

HOWARD H. CALLAWAY,
Secretary of the Army.

Mr. ROBERT C. BYRD. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I thank the distinguished majority whip for his usual cooperation in trying to accommodate Members, and in this instance honoring the request of the Senator from New York (Mr. BUCKLEY). He is perfectly right in calling attention to the rule, and I join him in his desire to make sure that not only Senators but particularly committee staff personnel are aware of the fact that when a bill is reported by a committee, it is reported and goes on the calendar, and is eligible to be called up for action in the Senate.

If there are to be any special arrangements, they will have to be arranged by unanimous consent. I think the advice, the cautionary remarks, of the distinguished majority whip are altogether in order. I join him in calling attention to the situation, and hope that we will not have to make similar remarks in the future.

Mr. ROBERT C. BYRD. I thank my distinguished friend, the assistant Republican leader.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. ALLEN be recognized after Mr. MANSFIELD on Monday next in the sequence of Senators for whom orders for the recognition thereof have been granted.

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

Is the recognition to be for 10 minutes or 15 minutes?

Mr. ROBERT C. BYRD. For 10 minutes.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I apologize to the distinguished Senator from Connecticut (Mr. WEICKER). I appreciate his usual courtesy and patience so that the program may be stated before he proceeds.

SENATE RESOLUTION 339—ADDITIONAL COSPONSORS

Mr. ALLEN. Mr. President, since the printing of Senate Resolution 339, which was presented yesterday by 40 sponsors, the following Senators have asked to be

included as cosponsors of the resolution: Mr. STEVENS, Mr. RIBICOFF, Mr. YOUNG, Mr. HUGH SCOTT, Mr. PELL, Mr. EAGLETON, Mr. ABOUREZK, Mr. DOMINICK, Mr. LONG, Mr. BAYH, and Mr. MCGEE, making a total of 51 sponsors of the resolution.

I ask unanimous consent that the names of the Senators whose names I have just given be added as cosponsors of Senate Resolution 339.

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

ORDER FOR ADJOURNMENT UNTIL MONDAY, JUNE 17, 1974, AT 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. on Monday next.

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

ORDER FOR RECOGNITION OF SENATORS ON MONDAY, JUNE 17, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Virginia (Mr. WILLIAM L. SCOTT) be moved to the top of the list of those Senators for whom orders for recognition have been entered, his name appearing, then, immediately following the recognition of the two leaders under the standing order.

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

NO ROLLCALL VOTES TO OCCUR ON MONDAY PRIOR TO 3:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes on Monday, June 17, 1974, prior to the hour of 3:30 p.m.

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

RECOGNITION OF SENATOR WILLIAM L. SCOTT ON MONDAY NEXT

Mr. GRIFFIN. Mr. President, I ask unanimous consent that on Monday Senator WILLIAM L. SCOTT be recognized in the original order as requested; in other words, prior to Senator ROBERT C. BYRD.

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

PERMISSION FOR COMMITTEES TO HAVE UNTIL MIDNIGHT FRIDAY, JUNE 14, 1974, TO FILE REPORTS

Mr. GRIFFIN. Mr President, I ask unanimous consent that all committees have until midnight tomorrow to file reports on legislation.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be no session tomorrow because the calendar has been cleared of all items except those which, for one reason or another, cannot be taken up now.

For example, H.R. 8217 will be delayed until after the debt limit bill has been taken up and disposed of. Otherwise, the same amendments would be offered, the same votes would occur twice, the same debates would be conducted twice, and the time of the Senate would be wasted.

Certain other measures on the calendar are awaiting the passage of Senate or House companion bills. Moreover, the decks need to be cleared for taking up the debt limit bill on Monday.

On Monday, the Senate will convene at 9:45 a.m. After the two leaders or their designees have been recognized under the standing order, various Senators will be recognized to speak for not to exceed 10 minutes each. Then the Senator from Virginia (Mr. WILLIAM L. SCOTT) and I will be recognized for not to exceed 15 minutes each, after which there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes, after which the Senate will proceed to the consideration of the debt limit bill. There is no time limitation on that bill.

The debt limit bill will remain before the Senate until it is disposed of, but the leadership may wish to place the Senate on a double track from time to time in the event circumstances dictate.

Some of the measures which will be ready for action on a multiple track system are as follows, but not necessarily in the order listed. Also, may I say that the list is not necessarily confined to the measures enumerated: S. 3164, S. 2201, S. 424, S. 707, S. 3423, and various measures that are on the calendar under Subjects on the Table—for example, the Comprehensive Test Ban Treaty, and S. 1485. Other measures include the following: S. 2784, on which there is a time limitation. This is a bill that was reported by the Committee on Veterans' Affairs. Hopefully that bill can be called up Wednesday on a double track. Other measures cleared for action may be called up at any time. Conference reports may be called up at any time.

Just a word of warning with respect to appropriation bills. They will begin to surface on the calendar during the second half of June. It is my understanding that the House expects to pass eight appropriation bills in addition to the continuing resolution, before the end of June. So some of these measures certainly will be ready for Senate floor action and will be acted upon before the July Fourth holiday. This means Friday sessions are increasingly a surety, and it may be necessary to hold Saturday sessions at some point prior to the July Fourth holiday in order to clean the calendar. Additionally, rollcall votes can be expected daily.

ADJOURNMENT TO 9:45 A.M. MONDAY NEXT

Mr. WEICKER. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until the hour of 9:45 a.m. on Monday, June 17, 1974.

The motion was agreed to; and at 4:50 p.m. the Senate adjourned until Monday, June 17, 1974, at 9:45 a.m.

NOMINATION

Executive nomination received by the Senate June 13, 1974:

NATIONAL TRANSPORTATION SAFETY BOARD

Francis H. McAdams, of the District of Columbia, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1977 (reappointment).

CONFIRMATIONS

Executive nominations confirmed by the Senate June 13, 1974:

DEPARTMENT OF JUSTICE

Keith S. Snyder, of North Carolina, to be U.S. attorney for the western district of North Carolina for the term of 4 years.

Gerald J. Gallinghouse, of Louisiana, to be U.S. attorney for the eastern district of Louisiana for the term of 4 years.

Otis L. Packwood, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years.

Norwood Carlton Tilley, Jr., of North Carolina, to be U.S. attorney for the middle district of North Carolina for the term of 4 years.

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma for the term of 4 years.

Max E. Wilson, of North Carolina, to be U.S. Marshal for the western district of North Carolina for the term of 4 years.

U.S. PATENT OFFICE

Paul J. Henon, of Virginia, to be an Examiner-in-Chief, U.S. Patent Office.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Robert R. Elliott, of Virginia, to be General Counsel of the Department of Housing and Urban Development.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Robert W. Porter, of Texas, to be U.S. district judge for the northern district of Texas.

Robert M. Duncan, of Ohio, to be U.S. district judge for the southern district of Ohio.

H. Curtis Meanor, of New Jersey, to be U.S. district judge for the district of New Jersey.

Donald S. Voorhees, of Washington, to be U.S. district judge for the western district of Washington.

IN THE COAST GUARD

Coast Guard nominations beginning John S. Calhoun, to be lieutenant (j.g.), and ending Harry R. Bishop, to be chief warrant officer, W2, which nominations were received by the Senate and appeared in the Congressional Record on June 7, 1974.