withdrawing its notice of cancellation of registrations for the use of 2,4,5–T on rice, and withdrawing notices of intent to hold hearings on all uses of the substance. I am in firm opposition to the EPA backdown on this matter and urge the appropriate officials to swiftly reconsider their decision. On June 28, the Environmental Defense Fund wrote to the Deputy Administrator of the EPA, John Quarks, to express their dissenting views on the herbicide decision. The letter, written by William A. Butler, the Washington counsel of the Defense Fund, is now submitted in full for the thoughtful consideration of my colleagues:

ENVIRONMENTAL DEFENSE FUND,
Washington, D.C., June 28, 1974.

Re 2,4,5–T; Silvex and Erbon: I.F. & R. No.'s 295 et al. and 302.

JOHN QUARLES, Esq.,
Deputy Administrator, Environmental Protection Agency, Washington, D.C.

DEAR JOHN: The Environmental Defense Fund wishes the record to show that it is in fundamental disagreement with two positions in which EPA has apparently acquiesced by its actions of June 24, i.e., actions withdrawing notice of cancellation of registrations for use of 2,4,5–T on rice and withdrawing notices of intent to hold hearings on all registered uses of 2,4,5–Trichlorophenoxyacetic acid and all registered uses of herbicides potentially containing tetrachlorodioxin, including Silvex and Erban. These positions apparently now taken by EPA are:

1. that if information obtained after a pesticide is registered indicates that continued registration may pose a hazard to public health, the registration need not be suspended or cancelled while the newly discovered hazard is being evaluated; and

2. that the burden of proving or disproving newly appreciated hazards properly falls upon EPA, rather than upon the registrant, and that if EPA cannot provide such proof, registrations must be continued.

In contradistinction to the above, EDF believes that the mere existence of a substantial doubt as to whether a pesticide is injurious to public health is in itself sufficient grounds for suspension and/or cancellation of registrations of the pesticide; [1] that the suspension or cancellation notices should be continued until such time as the *registrant* is able to submit data showing that the pesticide can be used with an adequate margin of public safety; and that although EPA may assist in developing such data, legal responsibility for the provision of such data may not be assumed by the agency. The responsibilities of EPA in this area are to determine whether there is a credible doubt concerning possible adverse effects of the pesticide and, if so, to suspend and/or cancel registrations unless and until the doubt is resolved. If EPA takes upon itself the ultimate burden of proof regarding a toxic product's safety, not only will it remove much incentive on the part of registrants to do so, but will also impose upon itself an impossible task in direct conflict with its own earlier policy and the legislative intent of the Federal Environmental Pesticide Control Act of 1972.

Therefore, we request that EPA suspend (and/or reinstate cancellation notices) for all registrations of 2,4,5-T and other herbicides derived from trichlorophenol during the period in which hazards of these herbicides are being evaluated. In light of Dr. Upholt's statement at the conference of all parties that EPA does not question (1) that tetradioxin (TCDD) itself is highly teratogenic, (2) that the purest commercially available 2,4,5-T is itself teratogenic, and (3) your statement that existing suspensions and cancellations of 2,4,5-T other than on rice will remain in effect (i.e., use around the home and garden, and recreational areas, or where water contamination would occur), we are at a loss to understand why for the larger volume and food uses of 2,4,5-T EPA is willing to permit continued use of the environment as registrants' laboratory, and the population at large as their unwilling guinea pigs. We are further perplexed why EPA permits Silvex, almost identical to 2,4,5-T in all pertinent chemical particulars, to be continued to be used for the very purposes (home and garden, recreational areas, and areas where contamination of drinking water could occur) for which 2,4,5-T has long since been cancelled, a cancellation you have now just affirmed. Surely this anomaly demands redress.

At the conference of all parties you agreed that we and our clients, as well as industry, might have an opportunity to participate in the planning of EPA's ongoing research in these matters. We would like an opportunity to meet with your research administrators as soon as possible to exchange ideas with them. We also request that EDF be kept informed of the progress of the research programs as they are conducted to assess the hazard of these herbicides; that the concentration of TCDD in current production runs of Silvex and Erbon be determined, with EDF being notified of the results; that the research programs include studies to assess the teratogenicity of both commercial and purified grades of all of the herbicides in question, especially Silvex; that a reaffirmation of the responsibility of a registrant for establishing the safety of his product, that the registrants be required to reimburse EPA for the cost of the research program; and that EPA publish a public warning that until the degree of hazard can be assessed, all direct or indirect exposure of pregnant women or animals to these herbicides should be avoided.

We trust that the above requests will not appear strident, but candidly, we are deeply concerned both by the specific of the June 24 decisions, and by the ominous policy shift they seem to portend. We trust that within the next year or two these issues will receive the public review they deserve.

Sincerely,

WILLIAM A. BUTLER,
Washington Counsel.

[1] In view of the fact that both the registrants and the EPA have embarked on major research programs in order to resolve some of the still unanswered questions concerning possible adverse effects of 2,4,5–T and related herbicides, we presume that neither question the existence of a continuing substantial doubt in the present case. In fact, your notice and statement clearly imply as much.

SENATE—*Thursday, July 11, 1974*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Where there is no vision, the people perish: but he that keepeth the law, happy is he.—Proverbs 29:18.

Eternal Father, who made man to dream dreams and see visions, keep us ever erect in spirit that we may always see the horizon and the promise of a better world.

Deliver us from the small vista, the cramped intellect, the narrow view, the tiny thought, which first diminishes and then destroys a nation. Keep our eyes open to the everlasting hills, the illuminated skies, the bright sunrises of hope and beauty and truth. Keep ever before us the holy vision of Thy perfect kingdom when all men are brothers and the law is fulfilled in love.

We pray in the name of Christ, who never forsook the vision, even on a cross. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 10, 1974, be dispensed with.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agreed, without amendment, to Senate Concurrent Resolution 101, to authorize the transfer of catafalque to the Supreme Court for funeral services for the late Chief Justice Warren.

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

H.R. 14920. An act to further the conduct of research, development, and demonstrations in geothermal energy technologies, to establish a Geothermal Energy Coordination and Management Project, to amend the National Science Foundation Act of 1950 to provide for the funding of activities relating to geothermal energy, to amend the National Aeronautics and Space Act of 1958 to provide for the carrying out of research and development in geothermal energy technology, to carry out a program of demonstrations in technologies for the utilization of geothermal resources, and for other purposes; and

H.R. 14323. An act to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes.

The message further announced that the House had agreed to House Concurrent Resolution 559 to provide additional copies of hearings and the final report of the Judiciary Committee on the impeachment inquiry.

HOUSE BILL REFERRED

The bill (H.R. 15323) to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes, was read twice by title and referred to the Joint Committee on Atomic Energy.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 559) to provide additional copies of hearings and the final report of the Judiciary Committee on the impeachment inquiry was referred to the Committee on Rules and Administration.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 953 and 954.

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

U.S. SPACE WEEK

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 223) requesting the President to proclaim the 7-day period of July 15 through 21, 1974, as "U.S. Space Week," which had been reported from the Committee on the Judiciary with an amendment on page 1, at the end of line 3, strike out "July 16 through 22, 1973," and insert "July 15 through 21, 1974,".

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

The title was amended so as to read: "Concurrent resolution requesting the President to proclaim the 7-day period of July 15 through 21, 1974, as 'U.S. Space Week.' "

THE 100TH ANNIVERSARY OF THE BIRTH OF HERBERT HOOVER

The concurrent resolution (S. Con. Res. 79) expressing the sense of the Congress with respect to the celebration of the 100th anniversary of the birth of Herbert Hoover was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Whereas Herbert Hoover, the thirty-first President of the United States, was born August 10, 1874, in a simple two-room cottage in the town of West Branch, Iowa;

Whereas the Congress of the United States, by Act approved August 12, 1965 (79 Stat. 510), authorized the establishment of the Herbert Hoover National Historic Site, consisting of the Herbert Hoover birthplace and the place where he and his wife, Lou Henry Hoover, were buried, in West Branch, Iowa, to be administered by the Secretary of the Interior for the education and enjoyment of the public; and

Whereas pursuant to the Presidential Libraries Act of August 12, 1955, the Administrator of General Services operates the Herbert Hoover Presidential Library at West Branch, Iowa, containing the personal and official papers of President Herbert Hoover: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby calls upon the Secretary of the Interior and the Administrator of General Services to cause to be conducted on or about August 10, 1974, appropriate ceremonies in celebration of the one hundredth anniversary of the birth of Herbert Hoover, thirty-first President of the United States, in the town of West Branch, Iowa.

FUNERAL SERVICES FOR THE LATE CHIEF JUSTICE OF THE UNITED STATES, MR. EARL WARREN

Mr. MANSFIELD. Mr. President, for the information of the Senate, I would like to make a statement on the funeral services for the late Chief Justice of the United States, Mr. Earl Warren.

The body arrived at 10 o'clock this morning. Church services will be conducted at the National Cathedral, at 1 p.m. Friday afternoon.

Final services will be at Arlington Cemetery, at 3 o'clock Friday afternoon.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

WHAT IS RIGHT WITH THE FEDERAL GOVERNMENT: TECHNOLOGY—DEVELOPMENT AND ASSESSMENT

Mr. PROXMIRE. Mr. President, less than a week ago, we observed America's celebration of its independence, and I could not help but reflect, as I toured through the State of Wisconsin, how far beyond the early dreams and aspirations of our Nation's architects we have developed. Last week in Wisconsin, I participated in a demonstration of firefighting equipment, worked as a laborer at a construction site of a water pollution abatement plant at a paper mill, worked briefly as a lumber scaler at the mill, assisted in tending a papermaking machine, and worked in a pea-packing operation. I was impressed with the unique combination of imagination and vision with the practicality of application displayed in the machinery, the complex processes, and the human understanding which have been developed to create products that meet human needs and attempt to solve society's problems. I am led to the conclusion that America's spirit of aspiration is nowhere so dramatically manifested as in the Nation's technological developments over the last 20 years. It is remarkable to consider that more than half the scientifically developed products on the market today did not even exist two decades ago.

Mr. President, in this 19th of my series of speeches on "What's Right With the Federal Government," I would like to acknowledge the role the Federal Government has played in promoting technological development and in taking steps to provide the proper mechanisms to assess the far-reaching effects of those developments. I believe that the Federal Government has given appropriate support to the Nation's technology which aspires to an improved living environment, increased opportunities, better health, and a generally higher quality of life for all citizens. Hand in hand with these improvements, however, comes change—some beneficial and some potentially disastrous.

When one defines "technology" as the systematic application of scientific knowledge to the solution of a problem or to the modification of the environment, one assumes that the intended consequence is to the good of society. We must, however, be constantly aware of potential negative aspects of our rapid technological growth. There is an inherent danger in the gap between man's ability to change his universe and his power to comprehend and deal with the changes he has wrought.

ACCELERATED RATE OF TECHNOLOGICAL DEVELOPMENT

In the short history of our country, technology has developed rapidly. Each development creates its own ripple effect, and a single development can and often does set into motion social and environmental changes which affect the whole society. For example, the development of agricultural technology brought millions of rural land workers to cities ill equipped to assimilate them. John Eberhardt, a noted contemporary architect and technologist, writes that cities as we know them are the consequences of six inventions occurring during the 11-year period from 1877 to 1888—the electric trolley, steel beam construction, elevators, electric lights, the automobile, and the telephone.

The rapid rate of technological development is not a new phenomenon. In 1844, the same year Charles Goodyear of New York received Patent No. 3,633 for an "Improvement in the Manner of Preparing Fabrics of India-Rubber," the first Commissioner of Patents, Henry L. Ellsworth commented in his annual report that—

> The advancement of the arts from year to year, taxes our credulity and seems to presage the arrival of that period when human improvement must end.

Henry's remarks gave rise to the myth of a Patent Office official who resigned because everything had been invented. His credulity would certainly be taxed if he could be a witness to the rapid technological explosion of the past 20 years.

The accelerated progress in the growth of our technology continues to be astonishing. When I first came to the Senate in 1957, it took more than 7 years to get a chemical product from the laboratory to the production stage. Now that process takes from 1 to 3 years.

ENERGY TECHNOLOGY

One significant development in the energy field is the chemical coal gasification process by which pulverized coal is converted to gas. Several gas demonstration plants are in operation or under construction in the United States. If successful, they will provide the basis for industry to begin building and operating commercial plants based on U.S. technology to produce synthetic natural gas by the

end of the 1970's. Although the process is not new, the increased need for energy sources has greatly accelerated research and development in this area in the last 3 years. The approximately $225 million Congress appropriated for coal gasification and liquefaction R. & D. in 1975 could result in widespread use from cooking and heating to generating plants. Since the United States currently imports much of its natural gas, development of an economical U.S. technology in this area could save from 20 to 50 percent over foreign technologies.

As the United States seeks independence in meeting its own oil and gas needs, sights have turned to offshore sources. In 1968, the Deep Sea Drilling project was formed under the auspices of the National Science Foundation. Out of this project came at least two technological developments essential to offshore oil and gas drilling—these are known as dynamic positioning and reentry. Dynamic positioning makes it possible for free-floating vessels to remain stationary over one spot. Reentry mechanisms enable a drill bit to be guided into a previously drilled hole with the help of a sonar scanner. Such technology makes it possible for us now to drill as deep as 13,000 feet into the crust of the Earth through 20,000 feet of water, while previous methods allowed us to drill at no greater depth than through 600 feet of water. We currently have 25,000 producing offshore wells, and such wells have yielded 55 million barrels of oil since 1968.

The point I am making, of course, is that we see the ads by the big oil companies, from which we get the impression that this is entirely a venture of private capital. Indeed, private capital has contributed greatly. But the Federal Government, by our own actions, by the actions of Congress, has played a very vital role in advancing this technology.

Several new technological developments which have significant implications for increased energy resources have the happy dual effect of easing our society's environmental and economic problems. Resource recovery—the systematic diversion of waste from disposal to reuse—has become a national goal of increasing dimension. Passage of the Solid Waste Disposal Act by Congress in 1965 signaled the start of extensive Federal involvement in developing new techniques in this area. This Federal role was further defined by the Resource Recovery Act of 1970. The Environmental Protection Agency was given major responsibility for its implementation. One dramatic example of the technology supported by EPA is a demonstration project in St. Louis. For the past 2 years, a plant has been operating there which produces a low-cost, low-polluting fuel, with a heat value half that of coal. This fuel is a result of a process which initially shreds trash, then separates out heavier materials such as glass, metals, rock—which may then be further processed for reuse—and finally processes remaining wastes for fuel. Plans are now underway to utilize this process in several urban areas.

An electric power company which participated in the St. Louis demonstration, intends to expand the St. Louis operation into a $70 million system which will yield about 6 percent of the company's electricity by the end of the 1970's.

Recent work has shown that cellulose, a major component of solid waste, can be converted into fuel oil. The Bureau of Mines of the U.S. Department of the Interior has been a prime mover in developing this process to yield a low-sulfur fuel oil. Two techniques have been developed: first, a pyrolysis technique, in which organic waste material is heated in a closed vessel in the absence, or near absence of oxygen to cause a decomposition into gas, oil, char, or a combination of these; second, a hydrogenation technique, whereby organic waste is heated under pressure in a closed vessel in the presence of carbon monoxide, steam and a catalyst, producing neither gas nor char, but rather oil—about 2 barrels per ton of dry waste.

When we consider that the amount of urban, animal, and agricultural waste produced annually in the United States in sufficiently concentrated areas to allow economic utilization is about 60 million tons, we realize that the conversion of this material to fuel would represent a highly creative form of disposal. In addition, if this amount were to be converted to oil, up to 230,000 barrels per day could be produced. This is about 1 percent of the Nation's total daily energy requirement.

A related process which my staff was successful in discovering, and we did our best to specialize it, is very exciting and offers tremendous promise and was recently successfully researched by the Army's Natick, Mass., research laboratories would have made the medieval alchemists green with envy. This effort literally converts "garbage to gasoline." I have recently held hearings in the Joint Economic Committee during which we learned that every year nature provides over 100 billion tons of cellulose, most of which ends up as waste and garbage. The Natick lab discovered an enzyme which breaks down cellulose into glucose, which can then be converted into ethyl alcohol at a cost of 20 cents a gallon and of course the raw material is free, and you can get paid to dispose of the garbage. Previous processes to produce the same ethanol had cost $1 a gallon.

With a slight modification in automobile carburetors, as much as a 25 percent mixture of ethanol and gasoline can be used with as good or better miles per gallon than with gasoline.

Now, in addition to this, Mr. President, I might point out, we asked two eminent experts at MIT to study the process. They were very enthusiastic about it. We asked Shell and, I believe, Mobil. They testified that this had great promise and were most encouraging about it.

So this is something that the Army has done that can be very helpful in advancing our technology.

On top of that, ethanol used as fuel for cars spews out fewer pollutants than gasoline. What a potential dual solution to our disposal of solid waste and scarcity of energy problems.

We have, so far, failed to harness our greatest energy resource—the Sun. Although solar energy is clean, inexhaustible and safe, private industry—seeing no way to assure sole rights to the Sun—continues to develop other energy sources. The Government has been a day late and a dollar short in investing in this effort. Recently, the Chairperson of the Atomic Energy Commission recommended to the President that about 2 cents of every Federal energy dollar be spent on developing solar energy, thereby slashing fivefold the recommendation of her own scientific advisers.

ENVIRONMENTAL TECHNOLOGY

Technology to mitigate the pollution in our environment continues to grow dramatically. The development of flue gas desulfurization systems to curb sulfur dioxide in the environment has been promoted by the Environmental Protection Agency, and the first United States systems are now in operation in Minnesota, Missouri, Massachusetts, and Alabama. Congress has been quite conscious of the air pollution problem.

In 1970, it passed the Clean Air Act. As a result increased use was made of low-sulfur oil and gas. But when recent shortages demanded burning the more readily available high-sulfur coal, flue gas desulfurization systems became an important weapon to combat the resulting air pollution. Such systems can be used in conjunction with all types of fuel but are especially appropriate for cleaning gases from the combustion of medium-to-high-sulfur coals, which constitute the largest segment of the Nation's fuel reserves.

Water pollution has also been a recent concern. As one technology evolves to increase man's productivity, another technology is needed to deal with the negative by-product of the first. The use of ozone in the treatment of wastewater has been of recent interest to the Environmental Protection Agency as well as to private industries. Ozone, a hyperactive variant of oxygen, has been long known as a powerful cleansing agent. When coupled with high-frequency sound waves, it removes all microscopic contaminants from wastewater which remain after sedimentation and filtration processes. Ozone treatment will probably be widespread in a short time. It is cheap—operating costs may be less than with a conventional system which would take up from 5 to 10 times the space. It also quickly reverts to oxygen once it has done its work, whereas chlorine, now used, lingers and becomes a pollutant itself. Ozone completely obliterates all bacteria and organic material and reduces odor, discoloration and turbidity. In this case, the Government is cognizant of potential negative effects of this new technology. Because exposure to large quantities of ozone can be dangerous, the EPA is backing studies in Michigan to determine whether there are any adverse effects associated with ozonated materials.

Another example of the need for a technology to solve pollution caused by another technology is the possible danger

of electromagnetic pollution in the form of radiation from electrical power machinery, long-wave, short-wave, AM, FM radio, TV, radar and microwave equipment.

Because most Americans are being continuously and increasingly exposed to such radiation from man-made sources, there is a need to determine if there are adverse physiological effects. The Federal Government is taking the lead in making such an assessment. The Office of Telecommunications Policy in the Office of the President began in 1972 to conduct an interagency program for control of electromagnetic pollution of the environment. The assessment program currently consists of about 114 projects in the Department of Health, Education, and Welfare, the EPA, the Department of Defense, and other agencies.

A new technology with implications for energy, pollution, transportation, and the economy is the hydrogen injection engine. It is an automobile engine modified to burn hydrogen along with gasoline. The process is expected in the short run to increase the thermal efficiency of the engine, reduce gasoline consumption, and lower pollution levels. If successful in the automobile, it may be feasible to use in aircraft. In the long run, the project being carried out by NASA could be the first step toward the "hydrogen economy," which is a concept in which hydrogen produced from water would replace conventional fuels for a variety of uses, including automobiles, and other modes of transportation, as well as home heating and cooling, and industrial applications. In this "hydrogen economy" the energy to decompose water into hydrogen and oxygen would be provided by solar, nuclear, or other advanced power sources. Hydrogen would then be transported through pipelines to urban centers where it would be used as a power source in itself completing the cycle by burning with oxygen to produce water. This is, of course, many years away, but our present technological developments and projects in this area are certainly provocative.

TRANSPORTATION TECHNOLOGY

We are receiving myriad benefits from our present transportation technology. Yet today, our memories of the severe crisis of recent months clouded, we use our transportation vehicles in a shamefully wasteful manner. Speed limits are broken and unenforced. Little planning is done to assure economic use of personal vehicles. In contrast, other transportation technologies have been of great economic benefit. In 1959, the first civilian jet-powered air transports went into service. Their productivity quickly outweighed their higher costs than piston engined planes. The new jets could deliver twice the number of passenger miles per hour. Time out of service for maintenance was sharply reduced. The jets, each capable of more work than two or three piston-engined planes of similar seating capacity, could also be made in sizes greatly exceeding the upper practical limits of piston engine planes. All parts of the continental United States were brought within about 4 hours of each other along with unparalleled comfort for the traveler. At the same time, the direct and indirect savings to the airlines enabled them to hold air fares throughout the 1960's at an almost constant level, even though inflation during that decade was 28 percent. Considering this factor, and computing fares based on the buying power of a 1960 dollar, it may be seen that during that decade, air fares were effectively decreased by more than 25 percent due to this transportation technology.

It is interesting to consider the consequences had we rejected jet power for civil air transports. Our civil fleet now numbers about 2,500 aircraft, only a few hundred more than we had in 1960. However, if we were still using piston engined aircraft, such as the DC–7, about 8,500 of them would be needed for today's air traffic, which would require at least three times our investment in airports, navigation equipment and air traffic control systems. Clearly, jets have saved the taxpayer billions of dollars.

Federal involvement in the evolution of civil air transport was extremely high. The military had undergone a transition to jet power in the late 1940's, bearing the R. & D. costs of jet engine development, high speed aerodynamics research, and airframe development.

Federal investment may soon bring into civilian use an air-cushioned vehicle indifferent to surface conditions, providing a capability for routine transportation to areas isolated by swamp, marsh, ice and water. It is a remarkable high speed vehicle which rides a foot or two above the surface resting its weight on nothing but a cushion of air, which it maintains through the use of fans. In 1968, these vehicles, known as "Hovercraft," began passenger service between England and France, across the English Channel. They currently carry 250 people and 30 cars smoothly over the choppy water at about 70 miles per hour. This function only serves to introduce the incredible potential of these vehicles. They can, for example, provide life saving operations under weather conditions too severe to permit other types of vehicles. On a grander scale, ACV engineers visualize oil tankers capable of freely navigating the ice of the arctic seas and continuing inland across marsh and tundra to reach oil supplies. They could then return with their cargo at speeds of over a hundred miles per hour, cross the shoreline when they reach their destination and proceed to a prepared, dry land unloading site. Deep harbors would not be needed by these tankers, nor would the pipelines now used to carry oil to ocean loading sites.

Although development of the ACV's in the United States is presently limited to military programs, this Federal investment is bringing the cost of producing civil craft within the range of economic feasibility.

AGRICULTURAL TECHNOLOGY

Mr. President, as I am sure the occupant of the Chair, the Senator from Minnesota (Mr. MONDALE) recognizes in agriculture, developments in the area of mechanical equipment have saved inestimable hours of labor. Agricultural Research Service engineers have designed bulk boxes, padded or filled with water, to prevent bruising of fruit and vegetable products at a great benefit to the American consumer and public.

They also developed the mechanical shaker, believed to be the most universally used tool for detaching fruit. Over the past 20 years, the utilization of mechanical harvesting equipment and the development of special containers has made possible the prompter harvesting of many kinds of agricultural products. For example, more than half the commercial crop of tart cherries is mechanically harvested and delivered to the processor in containers of water. For a variety of other fruits, nuts, berries, and vegetables, these technologies have resulted in better quality on the market, increased availability, elimination of manual labor and replacement with upgraded jobs involving machinery operation, increased American exports, and lower production costs.

Another agricultural technology being developed by the Federal Government is known as "integrated pest management"—an approach that employs a combination of techniques to control pests threatening crops. The Department of Agriculture is heavily committed to pest research. In fiscal year 1971, it budgeted over $75 million for pest control research. New techniques are being developed under a $3.5 million a year program in which the National Science Foundation, EPA, and USDA cooperated. With about 350 million acres in agricultural crop production in this country, the overall economic advantage of integrated pest management is obvious. Present beneficiaries of the approach are such crops as cotton, apples, and citrus which have been large users of pesticides in the past.

Another development with dual benefits to agriculture and to unpolluting the environment, is the use of domestic and industrial sewage to irrigate land. This land application of wastewater was pioneered in States such as Iowa, Wisconsin, Minnesota, and Ohio.

Of course, agriculture is the area where technology has really given this country the greatest advantage over other countries than we have in any area.

Our agriculture is literally 10 times as productive as the Soviet Union. They have eight times as many people engaged in agriculture as we have, and we produce 20 percent more food.

This is because, of course, of the tremendous technological improvements and also because of our much greater motivation with our family farms.

Waste water is beneficial to crops because of the natural fertilizers and nutrients. Congress played a major role in this development by allotting a substantial role to land application of waste water to attain the goals of the Federal Water Pollution Control Amendments of 1972.

EPA has published a nationwide survey of existing facilities, and has given grants to communities such as Muskegon, Mich., for land treatment of wastes.

SOCIAL AND ECONOMIC TECHNOLOGY

Commerce, industry, and the private citizen have reaped incalculable benefits from recent advance in computerization. Small solid state devices to perform a wide range of computations have reached mass markets within the last several

years. These include adding machines, analog computers, and special-purpose calculators. The development of the pocket computer has brought into being a new industry, increasing the efficiency of individuals in their homes and jobs. Federal funds supported the development of several components of such systems, including microcircuitry, solid state transistors, miniaturized condensers, to name a few.

Mr. President, right now economists and others are deeply concerned about our inflation and, of course, we have a very serious problem with the expectation of our people for a higher standard of living.

What I am talking about here is a really basic answer. If we can employ technology and productivity, we will produce much, much more, we will have a higher standard of living. Technology not only will help solve problems, we can also go a long way toward solving the most serious inflation problem that confronts us. Technology has transformed our social institutions. In the area of law enforcement, for example, a greatly enhanced information technology has developed.

In 1957, the University of Pittsburgh Health Law Center began efforts to develop man-machine procedures for storing and retrieving legal information in a computer. The Federal Government in 1964 established Project LITE—Legal Information Through Electronics—under the aegis of the U.S. Air Force. This advanced legal information handling system features the storage of such often used information as the United States Code, the Comptroller General's Decisions, the Armed Services Procurement Regulations and selected international agreements. In 1972, the Justice Department developed its own system and certain regulatory agencies are also developing limited holdings of machine-readable legal information. Such information technology has proven exceptionally useful in expediting the formerly painstaking retrieval process and in providing senior decisionmakers with information requisite to the performance of their planning and oversight roles.

The Federal Government has invested funds and technical assistance in the development of a prototype automatic fingerprint reader in 1972. This has had tremendous impact at the FBI Identification Division, where over 30,000 fingerprint inquiries are received each day which must be searched against a file of over 20 million arrest fingerprint records.

We must steadfastly maintain vigilance over our hard-won civil liberties as new information technologies threaten individual privacy.

RESULTS OF SPACE TECHNOLOGY

Despite my apprehensions about the role of our space program today, I acknowledge the new developments in communications, weather forecasting, earth resources monitoring and medicine which space technology has brought. I plan to discuss our great strides in biomedical technology in which NASA as well as other governmental agencies participated in the next of this series of speeches.

At this time, I would like to note the significant dimension the space program has added to our worldwide communication during the last decade. A mere decade prior to the 1972 Summer Olympics in Munich, the idea of the sports fan settling into his favorite easy chair to watch that event "live" would have seemed a fantasy. Yet such a phenomenon was on the road to reality with the launching of Telstar I in 1952 and the development of more sophisticated global satellites. Since then Americans have been witnesses to the Coronation of Pope Paul XI in 1963, the funeral of Winston Churchill in 1965, and Nixon's visit to China in 1972—participating in these historic events as they happened.

In the environmental area, thanks to the space program's meteorological satellites, weather prediction has shed much of the "guessing" element, and the result has been the saving of lives which might have been lost. The TIROS series of weather satellites must be credited for our improved ability to anticipate and prepare for serious storm developments. Meteorologists and disaster relief officials acknowledge that without early detection and monitoring via satellite, Hurricane Agnes would have had a drastically higher death toll.

NASA's Earth Resources Technology program, building upon the success of the ERTS–1 satellite, has applied infrared remote sensing techniques to studies of pollution control, agriculture and forestry, and cartography with significant results. A series of maps of a selected area—the Central Atlantic Regional Ecological Test Site—CARETS—documents the rapidly changing character of land use. Reflected on these maps are extensive urban changes, conversion of forest land to agriculture, and new development in many coastal resort areas. When computerized, statistics can be compiled to reflect accurately the general transformation of the land to both more intensive and more extensive uses. Data gathered are helping us zero in on new sources and impacts of pollution. They can help the farmer to detect vegetation problems before serious losses of crops and income occur.

INTERNATIONAL POSITION OF U.S. SCIENCE AND TECHNOLOGY

All of the technological developments I have mentioned so far go a long way to describe "what's right" with the Federal Government's support and promotion of scientific and technological activities. But how does the United States rate in its effort with other leading technological nations of the world? According to a report by the National Science Board of the NSF, several indicators would place the U.S. high.

In the scientific areas of physics, geophysics, molecular biology, systematic biology, psychology, economics, mathematics and engineering, the U.S. has produced over recent years a larger share of literature than any other country by far.

Literature produced by the United States in most scientific areas is more frequently cited than that produced by other countries.

During the period from 1960 to 1971, the United States gained an increasingly favorable position in the sale of technical know-how—that is patents, techniques, formulas, franchises, and manufacturing rights. Also through those years, the U.S. balance of trade doubled in product areas related to technology, such as chemicals, electrical, and nonelectrical machinery, aircraft and parts, and scientific and professional instruments.

Other indicators do not place the United States quite so favorably. The proportion of the gross national product spent for research and development between 1963 and 1971 declined in the United States, France, and the United Kingdom, but increased in the U.S.S.R., Japan and West Germany. By 1971, the U.S. expenditures for R. & D. were 2.6 percent of GNP, as compared with an estimated 3 percent for the U.S.S.R., 2 percent for the United Kingdom and West Germany, and 1.8 percent for Japan and France.

I might say that our ratio probably is not quite as favorable as that seems to be, because we put much more into military technology and military research, whereas Japan and West Germany have put in far less.

The number of scientists and engineers engaged in R. & D. per 10,000 population declined in the United States after 1969 but continued to increase in the U.S.S.R., Japan, West Germany, and France, with the result that by 1971, the number per 10,000 population for the U.S.S.R. was 37 compared with 25 for the United States and Japan, 15 for West Germany, and 12 for France.

FEDERAL ROLE IN ASSESSING IMPACT OF TECHNOLOGY

Whether on an international or on a domestic basis, technology, like all power, is good or bad, depending how we use it. I have spoken in positive terms of the Government's involvement in and support of technological endeavor. Yet there are two aspects of this involvement which are in great need of improvement. First is best serving the public's interest by maximum utilization of Government-owned inventions. Second is the long range assessment of the consequences of our technology on the part of Congress in order that our legislation may be more enlightened to meet problems of the future.

To elaborate on the first concern, a Presidential statement of Government patent policy issued in October, 1963, serves as an early indication of the low level of commercial interest in and development of Government-owned inventions. This statement tried to effect flexible but uniform patent policies which would optimize expenditures of public funds to serve public interest. A 1971 Executive statement and a variety of congressional activities conducted over the past decade testifies to a continued and expanding interest in improving Government patent policy.

In 1972, the Department of Commerce began to investigate methods to promote the licensing of Government-owned patents and to obtain domestic and foreign patent protection for technology owned by the Government. Through its National Technical Infor-

mation Service—NTIS—the Department developed an announcement mechanism to disseminate information on Government-owned inventions and conducted a small-scale experiment to determine the extent of commercial interest in Government patents. As a result, an experimental program was recently initiated to serve the public interest by identifying means to optimize public investment in R. & D., to promote technological advance and to encourage economic growth.

My even greater concern is for Congress to develop its ability to assess the consequences of its acts where technology is involved, and to plan to meet the dangers that are the long-term by-products of technology employed for short-range benefit. Much of my discussion of examples of technological advances here today, were developments to deal with the destructive results of man's applied knowledge. We need technology to undo what technology has done—to unpollute our environment—to rehumanize our education, our art, our advertising which have been dehumanized through misapplication of technology.

What is the scope of Congress' need to equip itself to cope with these problems? In 1972, the Senate Rules Committee estimated that as much as 40–60 percent of all legislation considered by Congress contained a technological component crucial to a bill's intent and execution.

Shortly before that, Stanford University surveyed the Congress and found general agreement that Senators and Representatives had inadequate sources of information and advice on technical issues involved in legislation—that public and congressional discussion of technical issues is unjustifiably handicapped by executive privilege and military classification—that new sources of technical assistance would be welcomed whether they be graduate science interns, a congressional agency with technological oversite, or research corporations to do technical studies.

With the establishment of the Office of Technology Assessment by Congress in 1972, we now have, in theory at least, a policy research tool for the more intelligent awareness of options, attainment of national goals, and protection of public welfare. But in practice, little has been accomplished so far. OTA is operating on a $2 million budget for fiscal year 1974, having requested $5 million. The current areas which the Board has approved for assessment include oceans, food, agriculture, energy and solar energy, materials, health and bioequivalence of drugs and transportation.

Some technology assessment has been implemented through the executive branch. The National Science Foundation has awarded about $1 million for support of technology assessment studies for the last several years through the Office of Exploratory Research Applied to National Needs Program. The Department of Commerce maintains an Office of Technology Assessment and Forecast, and several Federal agencies are supporting technology assessment studies such as:

Department of Transportation, Climatic Implications of Atmospheric Pollution;

Impacts on Industry of Alternative Types of Power Plants;

Environmental Protection Agency, The Electric Auto in Los Angeles.

Federal efforts in long term planning have been uncoordinated and uncomprehensive. As we reap the positive benefits of our technology which have raised not only the standard and quality of life, but the length of life as well, we must do far more to predict and plan for the negative effects—and the Federal Government must assume a greater share of the burden of comprehending the consequences of our technology.

Mr. President, I would like to devote the remaining minute or two that I have on another subject.

THE PRESIDENT MEETS WITH BUSINESS LEADERS

Mr. PROXMIRE. Mr. President, this morning the President is meeting at the White House on the economy with some of the leading businessmen of the country. He is meeting, among others, with representatives of the Bank of America, Alcoa, General Electric, Mobil, Sears Roebuck, Jewel Tea, General Motors, E. I. duPont, Burlington Industries, United States Steel, International Paper, Swift & Co., and so forth. He is also meeting with a number of economists.

Unfortunately, only two of the 30 or so people meeting with the President represent a view different from his own. I am afraid, therefore, that the President will simply be told that what he is dong is fine, to keep it up and not change it.

I think it is fine that the President is meeting with these eminent people. They are all very able, and can make a substantial contribution. But I do hope he will broaden his inquiry, because the problems confronting our economy today are so serious in the inflation area, and our policies are obviously not working, that the President needs some direct criticism and some alternative proposals that will work.

The PRESIDING OFFICER (Mr. INOUYE). The Senator's time has expired.

Mr. PROXMIRE. I yield the floor.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 30 minutes. Is there morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PRESENTATION OF A PETITION

INCREASE IMMIGRATION QUOTA FOR CAPE VERDE ISLANDS

Mr. PELL. Mr. President, the distinguished senior Senator from Rhode Island (Mr. PASTORE) and I have presented to the Senate a resolution from the General Assembly of the State of Rhode Island and Providence Plantations memorializing the Congress to increase the immigration quota for applicants from the Cape Verde Islands of Portugal from 200 to 600 annually.

There is already legislation before the Congress introduced by the distinguished senior Senator from Massachusetts (Mr. KENNEDY) which would authorize this increase. Section 4(3)(b) of S. 2643, of which I am a cosponsor, would authorize such an increase. It is also provided for in H.R. 981 which has been passed by the House and is now before the Senate Judiciary Committee.

Even an increase to 600, however, would fail to take care of the current backlog. The increase will probably cover the applications within the first to fourth preferences but not the 800 applicants in the fifth preference, who will have to wait for following years.

Nevertheless, the above legislation will afford relief in response to the general assembly's resolution, and I urge that the Senate act at an early date to enable the provision to become law.

To do so will make the Congress responsive to one of New England's finest ethnic groups, the Cape Verdeans, many of whom descend from those men who went courageously down to the sea in ships in the era of Moby Dick.

In Rhode Island, the Cape Verdeans are an industrious, alive community, mindful of their responsibilities and privileges as American citizens, and rightly proud of their island origins. They form a contributing part of the unique American tradition of diversity within unity. This cultural, intellectual, and artistic diversity is the well-spring of American genius.

In future, I hope the United States can give greater attention to the Cape Verde Islands, which have given us these fine citizens. We have too little information on what is going on there. For instance, I have heard that the islands are suffering from the same drought that is so cruelly afflicting much of Africa; that assistance is needed. Yet over here there is little information on the subject. I am suggesting that the State Department make a special survey of the situation on the islands, which culturally and politically are, of course, a part of Portugal. Perhaps such a survey will point to the need of establishing a U.S. consular post for the Cape Verde Islands.

The United States will always be happy to receive those Cape Verdeans who wish to join their American cousins in helping keep America great. S. 2643 will enable us to extend more generous hospitality in this respect.

The resolution, which was referred to the Committee on the Judiciary, reads as follows:

[State of Rhode Island, &c in General Assembly, January Session, A.D. 1974]

HOUSE RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION TO INCREASE THE IMMIGRATION QUOTA FOR PEOPLE FROM THE CAPE VERDE ISLANDS OF PORTUGAL FROM 200 TO 600 ANNUALLY

Resolved, That the general assembly of the state of Rhode Island hereby respectfully memorializes the congress of the United States to enact legislation to increase the immigration quota for people from the Cape Verde Islands of Portugal from 200 to 600 annually; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the senators and representatives from Rhode Island in the congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

S. Res. 356. An original resolution providing permission for Senator John V. Tunney to appear as a witness in the U.S. District Court for the District of Columbia (considered and agreed to); and

S. Res. 357. An original resolution to authorize Peter Stockett, Jr., chief counsel and staff director of the Committee on the Judiciary, and Floyd M. Riddick, Parliamentarian of the Senate, to appear as witnesses in the case of United States against Reinecke (considered and agreed to).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 2749. A bill for the relief of Miss Carmen Diaz (Rept. No. 93-997).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

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 (Rept. No. 93-998).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 2579. A bill for the relief of Alexander Choquette (Rept. No. 93-996).

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. 1791. A bill to amend title VIII of the Foreign Service Act of 1946, as amended, relating to the Foreign Service retirement and disability system, and for other purposes (Rept. No. 93-999).

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

H. Con. Res. 445. A concurrent resolution authorizing additional copies of oversight hearings entitled "State Postsecondary Education Commission" (Rept. No. 93-1000);

H. Con. Res. 474. A concurrent resolution authorizing the printing of additional copies of a report issued by the Committee on Foreign Affairs (Rept. No. 93-1001);

S.J. Res. 220. A joint resolution to provide for the reappointment of Dr. William A. M. Burden as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 93-1002);

S.J. Res. 221. A joint resolution to provide for the reappointment of Dr. Caryl P. Haskins as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 93-1003);

S.J. Res. 222. A joint resolution to provide for the appointment of Dr. Murray Gell-Mann as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 93-1004);

S. Res. 346. A resolution authorizing supplemental expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations (Rept. No. 93-1005);

S. Con. Res. 98. A concurrent resolution authorizing the printing of additional copies of the Senate committee print entitled "The Recreation Imperative" (Rept. No. 93-1006);

S. Res. 350. A resolution authorizing supplemental expenditures by the Committee on Finance for inquiries and investigations (Rept. No. 93-1007); and

S. Res. 355. A resolution authorizing supplemental expenditures by the Committee on Government Operations for an inquiry and investigation relating to budget and accounting measures and operations (Rept. No. 93-1008).

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

S. Res. 349. A resolution authorizing the printing of the report entitled "Material Needs and the Environment Today and Tomorrow" as a Senate document (Rept. No. 93-1009).

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:

Marmaduke Robert Ligon, of Oklahoma;

Leonard B. Pouliot, of Virginia;

John W. Weber, of Connecticut; and Eric Roger Zausner, of Virginia, to be Assistant Administrators of the Federal Energy Administration.

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

EXTENSION OF AUTHORITY FOR THE COMMITTEE ON FOREIGN RELATIONS TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on Foreign Relations, I ask unanimous consent that the deadline for the report from the committee under Senate Resolution 174, relating to the U.S. commitment to the Southeast Asia Collective Defense Treaty and Organization, which was agreed to November 2, 1973, be further extended to October 31, 1974.

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

REFERRAL OF S. 3743, REFERRING TO FISH RESTORATION, TO THE COMMITTEE ON FINANCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that if and when S. 3743, a bill to provide additional funds for certain projects relating to fish restoration, and for other purposes, should be reported by the Committee on Commerce, it be referred to the Committee on Finance for its consideration of matters falling within its jurisdiction.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CHILES:

S. 3747. A bill to designate as wilderness certain lands within the Great White Heron Refuge, National Key Deer Refuge, and the Key West National Wildlife Refuge, Fla.;

S. 3748. A bill to designate as wilderness certain lands within the Chassahowitzka National Wildlife Refuge, Fla.; and

S. 3749. A bill to designate as wilderness certain lands within the St. Marks National Wildlife Refuge, Fla. Referred to the Committee on Interior and Insular affairs.

By Mr. HARTKE:

S. 3750. A bill to amend the Atomic Energy Act of 1954 to revise the method of providing for and increasing the amount of public remuneration in the event of a nuclear incident, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 3751. A bill to amend the Endangered Species Act of 1973 to make it more consistent with the Marine Mammal Protection Act of 1972. Referred to the Committee on Commerce.

By Mr. GRIFFIN:

S. 3752. A bill to amend section 103(c)(4) of the Internal Revenue Code of 1954 to permit industrial development bonds to be issued to finance recycling facilities. Referred to the Committee on Finance.

By Mr. McCLURE:

S. 3753. A bill to amend the Funeral Transportation and Living Expense Benefits Act of 1974 (88 Stat. 53) to also provide memorial transportation and living expense benefits to the families of deceased servicemen classified as prisoners of war or as missing in action. Referred to the Committee on Armed Services.

By Mr. MONDALE (for himself, Mr. JAVITS, Mr. ABOUREZK, Mr. CLARK, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HART, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. McGEE, Mr. METZENBAUM, Mr. NELSON, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STAFFORD, Mr. STEVENSON, and Mr. WILLIAMS):

S. 3754. A bill to provide for services to children and their families, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PELL:

S. 3755. A bill to exempt from social security taxes individuals 65 and over who are eligible for social security benefits and who earn wages below the poverty level. Referred to the Committee on Finance.

By Mr. HUMPHREY:

S. 3756. A bill to amend title 23, United States Code, the Federal-Aid Highway Act of 1973, and other related provisions of law, to increase safety on the Nation's highways and establish a national urban-rural transportation policy. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES:

S. 3747. A bill to designate as wilderness certain lands within the Great White Heron Refuge, National Key Deer Refuge, and the Key West National Wildlife Refuge, Fla.;

S. 3748. A bill to designate as wilder-

ness certain lands within the Chassahowitzka National Wildlife Refuge, Fla.; and

S. 3749. A bill to designate as wilderness certain lands within the St. Marks National Wildlife Refuge, Fla. Referred to the Committee on Interior and Insular Affairs.

Mr. CHILES. Mr. President, the Wilderness Act of 1964 declared it the policy of the Congress to secure for present and future generations of Americans the benefits of a lasting resource of wilderness, and for that purpose the act established the National Wilderness Preservation System. It also provided for the orderly review of most of the units of the National Wildlife Refuge System to determine whether those areas did qualify for wilderness designation. Inclusion in the wilderness system provides the assurance that a small part of this Nation will remain natural forever, as it was when we founded this country. I am delighted this morning to introduce three bills which would designate certain lands as wilderness within five national wildlife refuges in the State of Florida. It is very fitting to be talking about wilderness this year, as 1974 is the 10th anniversary of the Wilderness Act, and these areas that I propose today for inclusion in the National Wilderness Preservation System are excellent examples of the types of areas that the spirit and the intent of the Wilderness Act intended to protect.

The first bill would designate wilderness within the three refuges in the Florida keys, the Great White Heron Refuge, Key Deer Refuge, and the Key West National Wildlife Refuge. This bill considers the same area as that in a bill I introduced in the last Congress. The Senate Interior Committee held a hearing on this measure in May of 1971, and has recently held another series of hearings on the proposal. The second measure would designate wilderness within the Chassahowitzka National Wildlife Refuge, located on the Gulf of Mexico in Citrus and Hernando Counties.

The Wilderness Act defines a wilderness area as one that is undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions. It further defines wilderness as an area that generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable, and has at least 5,000 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition. These areas that I propose today for wilderness designation meet all of the criteria of the Wilderness Act.

The Great White Heron Refuge, Key Deer Refuge, and Key West National Wildlife Refuge are all located adjacent to each other in the Florida Keys and contain types of plants and animals that are unique to the United States. The proposed Florida Keys Wilderness will incorporate lands from all three refuges and provide wilderness protection for this critical habitat. The Key West Refuge was established by President Theodore Roosevelt in 1908 to protect the habitat for a number of birds that were fast becoming rare. The Great White Heron Refuge was established in 1938 by President Franklin Roosevelt to further protect many avian species, but especially to protect the habitat of the great white heron. The Key Deer Refuge was established in 1957 through congressional action sponsored by Congressmen FASCELL and BENNETT, which provided the needed protection for the habitat of the rare key deer.

It is important to note that no additional land acquisition will be necessary as part of this proposal. Water bottoms and State and private lands within the boundaries of the three refuges are not included within the wilderness proposal. This bill represents the same proposal that I introduced into the Senate during the last Congress and that Congressman FASCELL has sponsored in the House during the last two Congresses. Inclusion of these lands in the national wilderness preservation system will assure that the critical wildlife habitat that is unique to this area will be preserved and maintained in its natural condition. The rare species that inhabit these refuges are best protected through the level of protection that wilderness can provide, therefore, this proposal can best serve the purposes of the refuges and that of the American people.

The Chassahowitzka National Wildlife Refuge was established in 1943 to protect the rich wildlife habitat that is the home of a variety of plants and animals found on the Florida Sun Coast. Large populations of waterfowl, wading birds, shore birds, alligators, manatees, mink, and a variety of other animals all call this refuge home. The Bureau of Sport Fisheries and Wildlife in its wilderness study report indicated that the refuge has been maintained in as near a natural condition as possible and that this has superbly sustained the natural wildlife populations.

A mixture of sawgrass marsh interspersed with cabbage palm—Red Cedar Tree Islands and combined with the salt water bays make this area a great treasure for wildlife and for the visiting public. The rich salt marsh attracts numerous varieties of waterfowl and a mixture of marine avian species. Several rare, endangered or otherwise threatened species, including the brown pelican, wood ibis, bald eagles, and ospreys are part of the biological community that is Chassahowitzka. The waters of the refuge are extremely clean and highly productive. The crystal clear waters of the Homosassa and Chassahowitzka Rivers and the numerous limestone springs flowing into the Gulf of Mexico here join together to produce an ideal aquatic situation for vegetative and animal growth and development.

The refuge is a place for people too, as over 30,000 visitors make their way to the refuge each year to enjoy its natural beauty, representative of the way this area of Florida has been for thousands of years. Approximately 2,500 acres of the refuge in Citrus County are open to the public for hunting each year, and the waters of the refuge are popular for a variety of sport hunters and fishermen who come to this fertile area. The use of airboats as well as motorboats has been an established use here and is a valid existing use of the refuge and its waters.

The Bureau of Sport Fisheries and Wildlife and the Department of the Interior have proposed 16,900 acres in one unit as wilderness. The first unit of my proposal would designate the same area as that contained in the entire Bureau proposal. This unit is located entirely within Citrus County and would include, in addition to much of the lands above the mean high tide, those submerged lands which are in Federal ownership. And while the submerged lands would be designated wilderness, the waters would not, and those uses currently accepted on those waters would be allowed to continue, while forever protecting the integrity of the waterbottoms.

The second unit in my proposal would designate approximately 6,100 acres of Federal lands within the refuge as wilderness. Most of these lands in this unit are located within Hernando County and the wilderness would include only those lands above the mean high tide. This second unit would provide wilderness protection for an additional portion of the refuge that is strongly deserving of such designation. The wildlife populations here are best maintained when the habitat is protected in its natural state, and wilderness would provide the maximum amount of protection for this critical wildlife habitat.

In the Bureau of Sport Fisheries and Wildlife booklet stating the results of their wilderness study, the agency indicates that most of the wildlife management within the 30,514-acre refuge is conducted within a 5,000-acre tract bounded by Seven Cabbage Cutoff, the Chassahowitzka River, and the interior boundary of the refuge from Porpoise Bay to the Chassahowitzka River. Recognizing the need of the Bureau to conduct some types of management within this area of the refuge, the proposal as outlined in the legislation I have introduced would exclude this area.

As indicated through the publication of the Bureau, the refuge is managed through the protection of its natural habitat, except for the 5,000-acre tract mentioned. Therefore, it must be the intent of this agency to maintain the natural habitat in the area I have proposed for a second unit of wilderness. This is an area that is fully qualifying for wilderness designation and would definitely meet the needs of the refuge: therefore, this area would make an excellent addition to the national wilderness preservation system and I would sincerely hope that the Congress would move to designate this area as wilderness. The designation of some 23,000 acres of wilderness within the Chassahowitzka National Wildlife Refuge would serve the needs of the people of this country well and would provide the assurance that at least a small part of this valuable estuary area would remain in its totally natural state.

The destruction of our valuable estuarine habitats throughout the country has continued at an increasing rate that has resulted in the loss of some of the truly great natural areas of our

country. This area within the Chassahowitzka refuge is one of the finest estuaries in Florida, and the country. Its protection as wilderness is only fitting in order to provide a permanent level of protection to this great area, and to insure its continued importance to the biological productivity of this aquatic region.

Mr. President, there has been some confusion as to the impacts of wilderness within the Chassahowitzka National Wildlife Refuge. Motorboats and airboats continue today to be a valid existing use of the waters within the refuge. These waters serve as an important recreational area to those hunters and fishermen who seek these rich lands for the pursuit of important recreational experiences, and the waters continue today to serve as the basis for a livelihood for many commercial fishermen and guides who have lived in harmony with the natural habitats of the refuge.

Under this proposal, these activities would be allowed to continue. Wilderness designation will not preclude these individuals from pursuing their chosen activities. It was never the intent of the Wilderness Act to stop such activities. Section 4(d)(1) of the Wilderness Act, the following provision is made, that within wilderness areas designed by this act, that the use of aircraft or motorboats, where those uses have become established, may be permitted to continue subject to such restrictions as the Secretary deems desirable. In addition, such measures may be taken as necessary in the control of fire, insects, and diseases subject to such conditions as the Secretary deems desirable. While this statement is actually referring to those areas established as wilderness within national forests by the passage of the Wilderness Act, it has become clear to me that this provision was intended to include all wilderness areas later established by action of the Congress. And that it was the intent of the Congress that such existing uses would not be precluded. Therefore, I have included language in this legislation that clarifies this intent of the Congress. It should be noted that many of my colleagues have shared this belief in the intent of the Congress as many of the bills recently introduced that would establish wilderness contain the same sort of provision. To further clarify this intent for the purposes of the Chassahowitzka National Wildlife Refuge, I have included a section in the bill that states that nothing in this act shall be construed to prohibit uses within the navigable waters of the Chassahowitzka wilderness of motorboats, commercial fishing, and guiding activities which are compatible with primary refuge objectives but subject to such regulations as the Secretary of the Interior deems necessary. This provision would insure that those use modes would not change. Those areas within the refuge are today subject to the regulation of the Secretary of the Interior, and these uses have been determined by the Secretary to be an appropriate use of the refuge. Thus wilderness would not change this status, and the Wilderness Act did not intend to stop these uses.

While these uses may seem to some as a use that is not consistent with wilderness, the wilderness would be designated on the submerged lands, not the surface of water. Thus wilderness can work to provide the assurance that these valuable, highly productive lands will continue to play an important role in the region's ecosystem, through the guaranteed protection of their well-known values. And this is completely consistent with the intent of the Wilderness Act. Therefore I strongly urge the Congress to adopt this proposal.

These bills that I have introduced today would provide superb additions to the national wilderness preservation system. The Bureau of Sport Fisheries and Wildlife has held hearings on these proposals in Florida and the people indicated that they do want these areas as wilderness. While some have offered objections to the Chassahowitzka proposal, the special provisions that I have included in this bill should alleviate any concerns about this proposal.

The third bill I wish to introduce today would designate wilderness within the St. Mark's National Wildlife Refuge.

The St. Mark's National Wildlife Refuge, which was established in 1931, covers some 64,000 acres on the coast of the Florida Panhandle. A biologically rich area, the refuge serves the needs of more than 300 species of birds and numerous species of mammals which make the refuge critically important for the protection of the ecosystem of this portion of Florida. The area serves as an excellent example of what the varied Florida habitats are like, and provides an important base for recreational uses.

Many species of wildlife including ducks, geese, herons, egrets, pelicans, loons, and alligators use the variety of marsh and water habitat found at St. Mark's refuge. The large populations of ducks and geese that use the adjacent bay are well known to people throughout the country as important wintering grounds for migrating birds. The marsh has increased importance as in its natural condition it provided important nutrients to the bay, adding to its biologically rich features. The maintenance of the regional ecosystem depends upon the continued relationship of the natural habitat within the refuge to the bay. The refuge also contains some beautiful representative strands of pine flatwoods so characteristic of the Florida Panhandle, and in decreasing abundance as it appears in its natural state.

The Bureau of Sport Fisheries and Wildlife conducted a commendable study of the refuge and came up with a basically sound proposal of 17,700 acres. This includes most of the critical marsh habitat and those areas of the refuge that would best be served through the designation of wilderness. In the bill that I have introduced today, I recommend the designation of some 19,400 acres as wilderness within the refuge. This adds about 1,700 acres of pine flatwoods to the north side of one of the wilderness units proposed by the Bureau. The agency has contended that the additional 1,700 acres does not qualify because of the occasional control burning that takes place on those lands. It is not on a yearly burn, rather it is burned only when it is felt to be necessary to maintain the natural habitat of the pine flatwoods. Actually this sort of management approach really maintains the wilderness character of the area and keeps the lands in their natural condition. The role of fire in the Florida ecosystem has been well documented. The Tall Timbers Research Station, located north of Tallahassee and not too far north of the refuge has conducted detailed scientific research in the area of fire as an element of the ecosystem, and have demonstrated that in certain habitats occasional fire is normal and nature's method of keeping a particular habitat type in its natural state, over the years we have protected many of our natural areas from fire, which for the most part have been important for the protection of critical habitat and the protection of personal property and human safety. It now has been demonstrated that in some areas fire is a natural force and important to the ecosystem, and the pine flatwoods of St. Marks is such an example. So the sincere efforts of the Bureau of Sport Fisheries and Wildlife have acted to actually return this habitat to its true wilderness character. Thus this area does qualify for wilderness designation and would make an excellent addition to the wilderness system. It would also serve to provide permanent protection for a small portion of this habitat type in north Florida and serve as an excellent wilderness backdrop to the salt water marsh.

Through the designation of wilderness within the areas designated in these three bills we will be providing the badly needed protection of the valuable habitats, and will insure that they will continue to remain in their natural state for all future generations of Americans to enjoy. I strongly urge the Congress to adopt the proposals as presented in these bills, and ask that they be printed in the RECORD at this point in my remarks.

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

S. 3747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132 (c)), certain lands within the Great White Heron Refuge, National Key Deer Refuge, and the Key West National Wildlife Refuge, Florida, which comprise about four thousand seven hundred and forty acres and which are depicted on a map entitled "Florida Keys Wilderness—Proposed", and dated August 1969, which shall be known as the "Florida Keys Wilderness".

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness shall be on file with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such legal description shall have the force and effect as if included in this Act: *Provided,* however, that correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Florida Keys Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secre-

tary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

S. 3748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132 (c)), certain lands within the Chassahowitzka National Wildlife Refuge, Florida, which comprise about twenty-three thousand acres and which are depicted on the map entitled "Chassahowitzka Wilderness—Proposed" and dated March 1974, which shall be known as the "Chassahowitzka Wilderness": *Provided,* That nothing in this Act shall be construed to prohibit established uses within the navigable waters of the Chassahowitzka Wilderness of motorboats, commercial fishing, guiding and other activities which are compatible with primary refuge objectivities but subject to such regulations as the Secretary of the Interior deems necessary.

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness shall be on file with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the force and effect as if included in this Act: *Provided,* however, That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Chassahowitzka Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

S. 3749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands within the St. Marks National Wildlife Refuge, Florida, which comprise about nineteen thousand four hundred and fifty acres and which are depicted on the map entitled "St. Marks Wilderness—Proposed" dated March 1974, which shall be known as the "St. Marks Wilderness".

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness shall be on file with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the force and effect as if included in this Act: *Provided,* however, that correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The St. Marks Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as Wilderness areas, except that any reference to such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

By Mr. HARTKE:

S. 3750. A bill to amend the Atomic Energy Act of 1954 to revise the method of providing for and increasing the amount of public remuneration in the event of a nuclear incident, and for other purposes. Referred to the Joint Committee on Atomic Energy.

NUCLEAR INCIDENT PUBLIC REMUNERATION ACT OF 1974

Mr. HARTKE. Mr. President, the search for new and available sources of energy to run and maintain our mobile society has turned many of our communities and cities into potential disaster areas.

Today, I introduce a bill which will guarantee a dollar-for-dollar payment by the Government to private landowners for any damage done to their property not covered by a present Government indemnification program, an insurance pool or by private insurance companies, when that property is damaged by a nuclear incident.

The building of new nuclear devices to generate more power and energy for our Nation should move along only when information available to nuclear experts indicates the possibility of damage by explosion to be zero. That may be an impossibility in terms of absolute assurances that no explosion or damage from leakage may occur. Thus, the Government enacted the Atomic Energy Act in 1954 providing indemnification to private property owners for damage done incident to nuclear accidents.

The enactment of Government indemnification legislation was in part the result of the failure by the private insurance business to move into the nuclear insurance business, because of the tremendous possibility of loss. If one nuclear powerplant were to explode close to an urban area, the damage to life and property startles the imagination.

The indemnification provided by the 1954 act is limited to $560 million, part of which comes from a nuclear insurance pool. With the present rate of inflation upon us, and with the construction of industrial sites and facilities worth far in excess of the Government indemnification, we must enact legislation to provide coverage to the private owners of property prior to a nuclear holocaust.

A constituent of mine has capably researched the aspects of nuclear insurance and testified before the Atomic Energy Commission and the Joint Committee on Atomic Energy of the Congress concerning the fears many private property owners have over the development and construction of nuclear powerplants in their backyards.

Mr. President, I ask unanimous consent to have Mr. Elmer Anderson's testimony of January 31, 1974, before the Joint Committee on Atomic Energy, printed in the RECORD following my remarks.

Mr. President, a further area of concern has been voiced by several Senators and citizens of late in relation to the theft of nuclear materials. It is reported that any sophomore student of chemistry in possession of the refined materials could make a crude homemade device which could cause extensive damage to life and property if exploded. I urge all persons involved with the safety of nuclear materials to take extraordinary precautions in the security of those materials. However, this is but another reason for the early enactment of legislation this year to protect property owners from loss due to a nuclear incident.

I believe many of us are aware of the recent occurrences at nuclear reactors. Mr. President, I ask unanimous consent to have printed in the RECORD as exhibit 2 an article entitled "Recent Occurrences at Nuclear Reactors and Their Causes" by William R. Casto, published in the November–December 1973 issue of Nuclear Safety.

I do not include a list of the occurrences for any purpose other than to bring to the attention of my colleagues the significant number—about 130—of nuclear incidents between June 1 and August 22 of 1973.

Billions of dollars have been invested by citizens, banks, mortgage institutions, contractors, industrial investors and other interested business people into the construction and development of real and personal property. While we must be ever mindful of the loss of life that may result from a nuclear incident, we should hope that the loss of life will be minimal, and expeditiously return all property affected to its condition prior to the nuclear incident. This can be accomplished by foresight, rather than hindsight, if we enact legislation during this session of Congress.

The cost of indemnification in the event of a nuclear incident should be borne by society rather than by those affected. The race to provide energy sources for the people is taxing consumers beyond their ability to pay.

No one knows if and where a nuclear incident might occur. In most cases the private property owners have established their communities before the construction of the nuclear powerplant begins. The only two alternatives available to the property owners are: move to a location away from the danger of a nuclear incident, or remain where they are without adequate protection and petition their Government for legislation which will indemnify them in the case of an explosion. We, in Congress, have a responsibility to the people to enact legislation which will adequately restore property that might be damaged.

Mr. President, I ask unanimous consent that the text of my 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. 3750

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 "Nuclear Incident Public Remuneration Act of 1974".

SEC. 2. That subsection i. of section 2 of the Atomic Energy Act of 1954 is amended to read as follows:

"i. In order to protect the public and to encourage the development of the atomic energy industry, in the interests of the general welfare and of the common defense and security, the United States shall make funds available for the portion of damages to personal or real property suffered by the public from nuclear incidents not indemnified by private insurance.".

SEC. 3. Subsection q. of section 11 of the Atomic Energy Act of 1954 is amended by striking out all after the word "involves", and inserting in lieu thereof the phrase "any source, special nuclear, or byproduct mate-

rial owned by, and used by or under contract with the United States.".

SEC. 4. Subsection j. of section 11 of the Atomic Energy Act of 1954 is amended by striking out the second sentence.

SEC. 5. Subsection c. of section 170 of the Atomic Energy Act of 1954 is amended by striking out "August 1, 1977" wherever it appears and inserting in lieu thereof "August 1, 1987".

SEC. 6. Subsection d. of section 170 of the Atomic Energy Act of 1954 is amended by striking out "until August 1, 1977" in the first sentence and inserting in lieu thereof "until August 1, 1987".

SEC. 7. Section 170 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following:

"p. Notwithstanding any other provision of this section—

"(1) each maximum dollar limitation on the aggregate indemnity of the Commission shall be increased (A) effective on the date of enactment of this subsection, by a percentage equal to the percentage increase in the consumer price index from September 2, 1957, through such date of enactment, and (B) effective on July 1 of each year beginning after the date of enactment of this subsection, by a percentage equal to the percentage increase in the consumer price index from the effective date of the next preceding increase to such July 1; and

"(2) the amount of any payment to any person as a result of any incident shall be (A) the applicable dollar ceiling, or (B) the fair market value of the property damaged or destroyed, whichever is less, reduced by any payment pursuant to insurance contract or other indemnification arrangement.

As used in this subsection, the term 'consumer price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics of the Department of Labor. No payment under the provisions of this subsection shall be made to a person who is an insurer of any such property who is a producer of nuclear energy, or who has an interest in a nuclear facility on account of his interest as an insurer, producer, or on account of such interest therein, respectively.".

SEC. 8. There are hereby appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 3751. A bill to amend the Endangered Species Act of 1973 to make it more consistent with the Marine Mammal Protection Act of 1972. Referred to the Committee on Commerce.

SCRIMSHAW AND SCRIMSHANDERS

Mr. KENNEDY. Mr. President, I am introducing today legislation designed to protect the art of scrimshaw and the livelihood of scrimshanders in Massachusetts and throughout New England.

The Marine Mammal Protection Act of 1972 which I strongly supported placed a ban on the taking, catching, importing or exporting of marine mammals except under permit for scientific purposes. One of the central purposes of this legislation was to end any further U.S. involvement in the destruction of threatened whale resources.

Then Endangered Species Amendments of 1973 prohibited whale ivory from entering interstate commerce and included whale ivory taken prior to the Marine Mammal Protection Act. While we all favor the strongest possible restrictions to prevent any further killings of whales, this provision as implemented has jeopardized scrimshaw art and the livelihood of those who deal in buying or selling antique scrimshaw products.

The legislation I introduce today and Congressman GERRY E. STUDDS is introducing in the House of Representatives will not in any way affect the prohibitions designed to discourage the destruction of whales.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of the telegram Congressman STUDDS and VANIK and I sent to Secretary of Commerce Dent regarding implementation of provisions of the Fishermen's Protective Act and the Trade Expansion Act of 1962 in order to end the violations by foreign nations of the conservation regulations on whaling, and the responses we have received.

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

Hon. FREDERICK B. DENT,
Office of the Secretary,
Department of Commerce,
Washington, D.C.:

We are contacting you to urge your personal review of implementation of provisions of the Fishermen's Protective Act (22 U.S.C. 1978) and the Trade Expansion Act of 1962 (19 U.S.C. 1323) with regard to the conservation of fishery resources. The agreements reached at the ICNAF meeting in Ottawa, we agree, are most significant in the three-year program to begin replenishing the stocks. And we are particularly pleased that fishermen from all parts of the nation have joined together in an effort to seek legislative remedies to conserve the fish resources off our shores. But during these particularly crucial years for the fishing industry and for the future of our fish and marine resources, it is most important that existing authority to protect and preserve these resources be exercised. In addition, there is a great deal of concern in many parts of the world that violations of international whaling regulations continue. We ure again that sections 1978 and 1323 be implemented, and we would appreciate your comment on the amount of relief that would be available to our domestic fishermen if this action were taken.

Senator EDWARD M. KENNEDY.
Congressman CHARLES A. VANIK.
Congressman GERRY E. STUDDS.

U.S. DEPARTMENT OF COMMERCE,
Rockville, Md., May 31, 1974.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: On May 6, in reponse to your request, I wrote you about ste[p] which could be taken by NOAA under the Pelly Amendment to the Fisherman's Protective Act. Since then, representatives of NOAA have returned from a visit of all but two of the members of the International Whaling Commission to seek support for the United States position on a moratorium on the commercial taking of whales. The trip was very beneficial and there is a much greater understanding of what the United States is attempting to achieve in the International Whaling Commission.

Prior to the trip of our representatives, and as a result of discussions with the representatives of the Department of State, we felt it advisable to proceed with notification of representatives of the Governments of Japan and the Soviet Union that we are proceeding with all considerations to a certification that the actions of the Japanese and the Soviets in failing to observe quotas passed at the last meeting of the International Whaling Commission did represent a significant weakening of an international conservation measure, and hence, would require such a certification, by the Secretary of Commerce to the President, under terms of the Pelly Amendment to the Fisherman's Protective Act. Our representatives, in their visit to Tokyo, found that the Japanese were considerably concerned about this development and we have had a request from the Japanese for a continuation of discussions on whaling problems here in Washington.

In order to provide for a continuation of the discussions with the Japanese, and also because the catch statistics presently available to us are tentative in nature and will not be validated as official until the International Whaling Commission meeting during the last week in June, in London, we have decided to postpone our final determination regarding the applicability of the Pelly Amendment until immediately after the International Whaling Commission meeting.

The next whaling season will not begin until December, hence the postponement of a month or so will not have any adverse effect on the catch, and should provide for a beneficial atmosphere in which negotiations can take place.

We look forward to the meeting in London next month with hope of making progress in the international conservation of whales. I will keep you posted as things develop.

Sincerely,

ROBERT M. WHITE,
Administrator.

THE SECRETARY OF COMMERCE,
Washington, D.C., May 6, 1974.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: In response to your telegram of March 8, 1974, we have reviewed the embargo provisions of the Fishermen's Protective Act of 1967, as amended (22 USC 1978), and the provisions for the increasing of import duties on fish contained in the Tariff Act of 1930, as amended (19 USC 1323), from the standpoint of conservation of fishery resources.

Section 1978 of Title 22 (The Fishermen's Protective Act) allows the President, following the certification of the Secretary of Commerce, to impose an embargo on the import of all or part of the fish products of any country whose nationals are directly or indirectly conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program. Such embargo must not violate the General Agreement on Tariffs and Trade.

Section 1323 of Title 19 allows the President to increase the import duty rate not more than 50 percent above the rate existing on July 1, 1934, on any fish of any country which has failed or refused to engage in good faith negotiations at any conference on the use or conservation of international fishery resources. Imposition of any such increase in the rate of duty would, again, have to be considered in the light of the General Agreement on Tariffs and Trade.

With respect to the Fisherman's Protective Act, we have not certified to the President that any country is conducting fishing operations in a manner which diminishes the effective of an international fishery conservation program. We recognize the serious problem with respect to whales. The whaling season in the South Atlantic and Pacific oceans, which began in December, is nearing its close, and we are receiving statistics on whale catch from the International Whaling Commission. These statistics are expected to be complete by the end of April. We will then be in a position to consider the determination called for by the Act.

The preliminary statistics which are already available to us have prompted us to ask the Marine Mammal Commission whether, upon certain assumptions as to catch, a situation exists which, from a scientific point

of view, is diminishing the effectiveness of the conservation program of the International Whaling Commission; and if such be the case, whether they would care to make a recommendation to us under § 202(a)(4) of the Marine Mammal Act. This section requires the Commission to "recommend to the Secretary [of Commerce] and to other Federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals." The activities of the United States under the International Convention for the Regulation of Whaling and its implementing legislation are specifically within the field of study of the Commission under § 202(a)(1).

You have asked specifically concerning the amount of relief which would be available to U.S. fishermen if §§ 1978 and 1323 were implemented. Both of these sections involve the exercise of Presidential discretion, as to the scope of the embargo (§ 1978), or as to the scope or amount of the duty (§ 1323). It is therefore impossible to predict just what the effect would be, although it is clear that a careful study would have to be made to the effects of any contemplated action on the U.S. economy before it was taken.

Although the history of the Acts herein discussed shows no case of the application of the import sanction provisions, it is nonetheless true that the threat of their application may have persuaded certain nations to alter conflicting policies and to refrain from acts that would diminish the effectiveness of internationally agreed-upon fishery conservation measures. Cases in point in recent years include the Danish situation with regard to conservation of Atlantic salmon, and the recent Canadian situation regarding haddock, with both of which you are probably familiar.

FREDERICK B. DENT,
Sincerely,
Secretary of Commerce.

Mr. KENNEDY. Mr. President, I sent Dr. Robert White, Administrator of the National Oceanic and Atmospheric Administration a telegram so that he might emphasize during the meeting of the International Whaling Commission in London in June, the very deep concern of the Congress that effective international action be taken to save the whales, which I ask unanimous consent to have printed in the RECORD.

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

ROBERT M. WHITE,
Administrator,
Department of Commerce,
Rockville, Md.:

Thank you so much for your letter regarding implementation of the Pelly amendment to the Fishermen's Protective Act. I fully understand your decision to postpone further consideration of applicability of the Pelly amendment in the case of whaling regulation violations until after the June meeting of the International Whaling Commission. I am hopeful that catch statistical information will be available as a result of the meeting. And I am hopeful that representatives of NOAA will express the concern that I share wtih so many members of Congress that action must be taken to end the violations. I wish you every success for the meeting. And I am certain that the Congress and the National Oceanic and Atmospheric Administration working together can assure that whales will be protected from further devastation. I look forward to hearing from you regarding the decisions reached as a result of the meeting.

EDWARD M. KENNEDY, U.S.S.

Mr. KENNEDY. Mr. President, the amendment to the Endangered Species Act of 1973 which we introduce today will not in any way lessen the effectiveness of those efforts to protect the whales. What it will accomplish will be the preservation of an art form which is an integral part of our New England heritage and our Nation's history.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a description of scrimshaw taken from an outstanding book by E. Norman Flayderman titled "Scrimshaw and Scrimshanders."

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

THE ROMANCE OF SCRIMSHAW

In the colorful panorama of American history there are scores of heroes, nearly all of them the product of war. By comparison, peace time pursuits provide considerably less opportunity for heroism. Yet, in all of our history and folklore no men were braver nor fought a more dangerous or powerful foe than did the American whalemen. Largely anonymous, and certainly unheralded, these men fought and defeated Goliaths of the deep as a matter of routine.

If the reader will allow me the liberty—the feat of St. George versus the dragon pales beside the vision of a single man balanced in the rocking bow of a frail whale boat about to heave a harpoon into the side of a 65-foot long multi-ton monster. His importance and individual deeds have been slighted because of his anonymity and despite the great frequency in which he engaged in combat.

These same whalemen developed and perfected the nautical folk art called "scrimshaw," the product of idle hours on endless cruising searches for the elusive leviathan. The art grew and reached its height during the first half of the nineteenth century when the whaling industry and crew were dominated by the Yankee sailor.

During that time hundreds of American whaling vessels roamed the oceans of the world carrying many thousands of American sailors with them, each of whom most likely tried his hand at the art at one time or another. Crews on American vessels, for the most part were from the northeast and included some native Indians.

With the advent of time ever larger of numbers of Portuguese from the western islands were signed on, with billets also being filled in many foreign ports from Africa to the Pacific Islands, Hawaii supplying a goodly share of native "green" hands. Eventually the typical Yankee whaling crews became a United Nations in miniature; the only native American, in some instances left aboard the ship were its officers. Each crewman shared the heartache of having left behind a mother, a sweetheart, or a wife and children for years on end.

The range of objects they made reflects the many influences to which these sailors were exposed and has culminated as a unique art form. The objects vary from those with utilitarian applications both on shipboard and ashore to purely decorative creations.

In each of them is preserved a small but recognizable part of the history of whaling. A great many of these artifacts mirror the emotions of the men who carved them and in themselves are symbolic of the spirit of a romantic and important bygone era.

To understand scrimshaw it is important to tie the story directly to the history of whaling and to have an understanding of the life and activities of the whaleman himself. Scrimshaw reflects the activities in which the whalemen participated and it is essential for the student and collector to understand the details of shipboard living and of the whaling industry as each played its role in forming the ultimate scrimshaw product. It also would add much to one's ultimate interest in and love of these items to know in some depth the background and surroundings of the scrimshander when the items were made.

The development and flowering of the art of scrimshaw parallels the development of the American whaling industry; it was affected by every phase of it. It is amazing that so highly developed an art and one so important in the life of many people associated with the whaling industry was almost totally free of commercialism during its day. Nowhere were we able to find mention of this art in any commercial publication, periodical or otherwise.

A great many whaling acocunts were written during the period, and scrimshaw is prominently mentioned in each as the idletime activity of the whaler. Its practice was as commonplace as the heroism of the whaleman himself and both were obviously just taken for granted!

Scrimshaw has often been called an "indigenous American folk art." This is not quite accurate. No doubt the art fluorished and reached its pinnacle at the hands of the American South Sea whaleman and his product dominates fine collections the world over. In all fairness it must be pointed out that sailors of both our own and other nations' navies and merchant fleets often, and with obvious great skill, did engage in the art of carving scrimshaw exactly as the whalemen did, and their product must be included and classed as "true" scrimshaw.

In the field of Americana, scrimshaw has always been recognized as a specialized collecting pursuit. Until the recent decade, a small, though very active group of collectors and nautical museums have had the field to themselves. The fact that the late President John F. Kennedy was an avid collector contributed immensely to the blossoming interest in scrimshaw over the last ten years and the burgeoning number of collectors now in the field. At present it seems to be one of the most eagerly sought after of collectibles of Americana. The word itself was relatively obscure and much is owed to the late President for bringing it to prominence among collectors, historians, and the general public. He loved these scrimshaw artifacts and displayed many of them on his desk.

American whaling days are gone. Although the era can never be relived, the intriguing artifacts that remain are highly significant reminders of a wonderful era of our past that succeed in catching the spirit of a magnificent and departed period. In each of them you can see—just for a fleeting moment—the spirit of the men who produced them, and if you have a bit of the romanticist about you, you can smell the salt water, the tarred rope, and feel the gentle roll of the ship as you handle the piece.

Mr. KENNEDY. Mr. President, President John F. Kennedy's love for scrimshaw is well known and I would like to recall at this time the words of President Kennedy included in the outstanding "John F. Kennedy Scrimshaw Collector" by Clare Barnes, Jr.

President Kennedy's words at the dedication of President Franklin D. Roosevelt's naval print collection apply as well to his own collection of scrimshaw which covered his desk:

It serves two very useful purposes. First, it tells us more about a very important part of our lives—our lives at sea. We think of ourselves, I think, as land animals in a sense, but we really look to the sea—the Atlantic and the Pacific—which have defended us and have secured us and have enriched us.

Most importantly, President Kennedy's scrimshaw collection reminded him of the sea that he loved:

I really don't know why it is that all of us are so committed to the sea, except I

think it's because in addition to the fact that the sea changes, and the light changes, and the ships change, it's because we all came from the sea. And it is an interesting biological fact that all of us have in our veins the exact same percentage of salt in our blood that exists in the ocean, and, therefore, we have salt in our blood, in our sweat, in our tears. We are tied to the ocean. And when we go back to the sea—whether it be to sail or to watch it—we are going back from whence we came.

Mr. President, the Congress has expressed its overwhelming concern that the killing of whales must end. The legislation I offer today will allow the Congress to likewise express its appreciation and love for an American art form that reminds us of our history and of "that most admirable of human virtues" our courage.

By Mr. GRIFFIN:

S. 3752. A bill to amend section 103(c)(4) of the Internal Revenue Code of 1954 to permit industrial development bonds to be issued to finance recycling facilities. Referred to the Committee on Finance.

Mr. GRIFFIN. Mr. President, I send to the desk for appropriate reference a bill to amend section 103(c)(4) of the Internal Revenue Code of 1954. This section of the code accords tax-exempt status to certain industrial development bonds issued by municipalities.

Recently the city of Menominee, Mich., authorized issuance of industrial development bonds totaling $13 million to assist in converting a local paper mill to a plant that would recycle waste paper.

Attorneys for the city were under the impression that bonds issued for such a purpose would qualify under section 103(c)(4)(E) so that interest on such bonds would be tax exempt. That code provision exempts such bonds if the proceeds are used to construct "sewage or solid waste disposal facilities. . . ." However, the city's application to establish tax-exempt status for these bonds has been rejected by the Internal Revenue Service.

IRS agrees that the bonds would qualify in other respects but it has denied tax-exempt status to these bonds because, as I understand it, the IRS does not regard a plant which recycles wastepaper to be a waste disposal facility.

IRS reached that conclusion because it narrowly construes the term "waste material" to include only useless, unused, unwanted, or discarded solid material which has no value whatever at the place it is located.

In this case the waste material would be of some value. Furthermore, instead of disposal, if that word is defined so as not to include recycling, the waste would be recycled for reuse.

The decision made by IRS in this case falls hard on the city of Menominee. Unless this plant is converted it may have to close down, with a resulting loss of $25 million a year. Even if the plant is not closed down completely, there necessarily would be a substantial reduction in the work force. This comes as a serious blow to the upper peninsula of Michigan, an area which is already economically depressed.

The bill I introduce would amend section 103(c)(4) of the Code to make clear that industrial development bonds will be tax exempt not only when proceeds are used for facilities to dispose of waste material but also when facilities are to be used to recycle waste material for reuse.

At a time when there is so much legitimate concern about our environment and when the need to preserve our resources through recycling is so clear, it is ironic and tragic that our existing tax laws, as interpreted by IRS, operate to encourage disposal—rather than recycling—of waste material. Surely, in the interest of common sense—and in the interest of the environment—something should be done about this situation.

I understand that it would be necessary to cut down 4,900 trees a day to produce the same amount of new paper as the Menominee plant plans to produce by recycling waste paper.

Surely, this is a bill that should be considered and enacted at the earliest possible date.

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

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

S. 3752

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

(a) Sec. —. (a) Section 103(c)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out "or" at the end of subparagraph (F),

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new subparagraph—

"(H) facilities for the recycling of used solid materials."

(b) The amendment made by subsection (a) shall apply with respect to obligations issued on or after the date of the enactment of this Act.

Br. Mr. MONDALE (for himself, Mr. JAVITS, Mr. ABOUREZK, Mr. CLARK, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HART, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. MCGEE, Mr. METZENBAUM, Mr. NELSON, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STAFFORD, Mr. STEVENSON, and Mr. WILLIAMS):

S. 3754. A bill to provide for services to children and their families, and for other purposes. Referred to the Committee on Labor and Public Welfare.

CHILD AND FAMILY SERVICES ACT OF 1974

Mr. MONDALE. Mr. President, today I am privileged to introduce with the distinguished senior Senator from New York (Mr. JAVITS), and Senators ABOUREZK, CLARK, BROOKE, CASE, CRANSTON, HATFIELD, HATHAWAY, HART, HOLLINGS, HUGHES, HUMPHREY, KENNEDY, MCGEE, METZENBAUM, NELSON, PELL, PERCY, RANDOLPH, RIBICOFF, STAFFORD, STEVENSON, and WILLIAMS, the Child and Family Services Act of 1974.

Mr. President, a companion bill is being introduced in the House of Representatives today by Representative JOHN BRADEMAS, who chairs the House Select Subcommittee on Education and is a creative and forceful leader on this effort and many other efforts designed to improve opportunities for families and their children. Representative BRADEMAS is joined by Representatives ORVAL HANSEN, PATSY MINK, and MARGARET HECKLER as major sponsors of the companion bills and by over 50 other cosponsors.

Our bill is designed to provide financial assistance to help States and localities upgrade the quality and expand their services for children and families. This measure incorporates the fundamental principles and elements contained in both the child development provisions in S. 2007, the Economic Opportunity Amendments of 1971, which passed the Congress in 1971, and was vetoed by President Nixon, and in the Comprehensive Head Start, Child Development and Family Services Act of 1972 which passed the Senate by a vote of 73 to 12 on June 20, 1972.

PURPOSE

Our bill seeks to help families better meet the need for quality, family-oriented, preschool programs for millions of young children whose mothers are working, or who because of inadequate resources are denied adequate health care, nutrition, or educational opportunity.

It recognizes and specifically provides that child care programs must be totally voluntary, and must build upon and strengthen the role of the family as the primary and fundamental influence on the development of the child.

It assures that parents will have the opportunity to choose among the greatest possible variety of child and family services—including prenatal care, nutrition assistance, part-day programs like Head Start, after school or full day developmental day care for children of working mothers, in-the-home tutoring, early medical screening and treatment to detect and remedy handicapping conditions, and classes for parents and prospective parents.

THE NEED

Mr. President, the need for adequate care for the millions of children whose parents are working has increased drastically in recent decades, and continues to grow. Hearings I conducted recently in my Subcommittee of Children and Youth concerning trends and pressures affecting the American families have provided a real understanding of the needs. Permit me to cite just two findings.

First, there has been a tremendous increase in the numbers of mothers who are working. Consider the facts:

In 1971, 43 percent of the Nation's mothers worked outside the home, compared to only 18 percent in 1948.

One out of every three mothers with preschool children is working today, compared to one out of eight in 1948.

Thirteen percent of all children—some 8.3 million—are living in single parent families, and 65 percent of these parents are working.

Yet, there are only about 700,000 spaces in licensed day care centers to serve the 6 million preschool children whose mothers work.

Some of these children are receiving adequate care while their mothers work, but many are not. Many are left in purely custodial and unlicensed day care cen-

ters, and many others are left alone to look after themselves, because that is all their parents can afford. For example, it is estimated that 10 percent of the elementary school children, aged 6 to 11, whose mothers work are left alone after school to look after themselves.

In addition, Mr. President, the need for adequate child care has increased since my previous bill was vetoed. Between 1970 and 1973, for example, there has been an increase of 650,000 in the number of children whose mothers are working. And since that veto, the average family's real spendable earnings has fallen by 3.4 percent—increasing the difficulties of working families who do not have enough money to pay for the decent child care they want for their children.

And although some existing Federal programs, such as title IV of the Social Security Act, help provide day care for these children, much of it is inadequate. Dr. Edward Zigler, the dedicated and talented former Director of HEW's Office of Child Development stated that in "many instances we are paying for service that is harmful to children."

The need for improved and upgraded day care opportunities among families near but above the poverty line can hardly be overemphasized. There are 1 million children of working mothers in families with incomes between $4,000 and $7,000—incomes which are just a little too high to qualify for most federally assisted day care programs such as those under Head Start and title IV of the Social Security Act, and too low to afford quality day care in private programs. Indeed, these families living in near poverty have perhaps the greatest unmet need for quality day care.

Some people would like us to believe that the day care needs of the near-poor and working parents have been adequately met by the recently enacted liberalization of income tax deductions for child care. But the facts do not support this optimism.

In response to my inquiry concerning the tax savings under this new income tax deduction, the Treasury has provided the following information:

A family of four with an income of $5,000 which spends $500 for child care would realize no tax savings;

A family of four with a $7,000 income which spends $700 for child care would realize a savings of only $77;

A family of four with a $10,000 income which spends $1,000 for child care would realize only $190 tax savings;

A family of four with an income of $18,000 and child care expenses of $1,000 would save $250 in taxes.

Mr. President, our hearings on the American families revealed a second striking trend that has paralleled the dramatic increase of working mothers. Over the past several decades, America has experienced the virtual disappearance of the extended family. Testimony showed that at the turn of the century, for example, 50 percent of the homes in Boston contained parents, their children, and at least one other adult—a grandparent, an aunt, or other relative. That figure today is about 4 percent. This is representative of the decline in extended families nationally. And this has meant a tremendous decrease in the availability of relatives to look after children when both mother and father are working.

These inadequacies in our child care system can have a lasting and detrimental effect on children. Every parent knows the importance of the first 5 years of life. We know that these beginning years are the most important for child's growth and development. These early years are the formative years—they are the years in which permanent foundations are laid for a child's feelings of self worth, his sense of self respect, his motivation, his initiative, and his ability to learn and achieve.

Yet, the statistics I have cited already make it clear beyond any doubt that we are not offering the support many families need; and that we have particularly neglected families and children with the greatest economic and human need.

Mr. President, today there are over 3 million preschool children whose families have incomes below the poverty level, and probably an equal number of families living in near poverty. In spite of the love and attention these children receive from their families, many are growing up without the nutrition and health care during their early years that are necessary for a child to have a real chance in American life.

These are what I call "cheated children"—children who simply do not have the access to the fundamental kinds of health, nutritional, and educational care that most Americans take for granted.

Recent findings by the Mississippi Medicaid Commission indicate the magnitude of health needs alone. The extent of undetected and untreated health problems among poor children examined by that commission are frightening. The commission found 1,301 medical abnormalities in the 1,178 children it examined, including: 305 cases of multiple cavities; 97 cases of faulty vision; 217 cases of enlarged tonsils; 57 cases of hernia; 48 cases of intestinal parasites—mostly hookworms; 53 cases of poor hearing; and 32 other medical conditions requiring immediate treatment.

Many poor children—Mexican Americans, Indians, Eskimos, Puerto Ricans, and members of other minority groups—grow up learning English as a second language, or not at all. They are confronted with an alien language and an alien culture when they begin school, often with very little preparation.

GROWING NATIONAL AWARENESS

Mr. President, our Nation is paying far too great a cost—in both human and economic terms—for this neglect. And there is growing public awareness of these needs. Of all the individuals and organizations which have identified child care and preschool education as a top priority in recent years—and the list is simply too long to include at this point—let me cite just two examples.

The 1970 White House Conference on Children—composed of a broad cross-section of over 2,000 delegates representing every walk of life across our Nation—identified as its No. 1 priority among children's services the provision of "comprehensive family-oriented child development programs including health services, day care, and early childhood education."

Specifically, the White House Conference said:

We recommend that the Federal Government fund comprehensive child care programs, which will be family centered, locally controlled, and universally available, with initial priority to those whose needs are greatest. These programs should provide for active participation of family members in the development and implementation of the program. These programs—including health, early childhood education and social services—should have sufficient variety to insure that families can select the options most appropriate to their needs. A major educational program should also be provided to inform the public about the elements essential for quality in child care services, about the inadequacies of custodial care, and the nature of the importance of child care services as a supplement, not a substitute, for the family as the primary agent for the child's development as a human being.

Mr. President, the need for the legislation we are introducing today was eloquently stated by President Nixon in February of 1969 when, in a message to Congress, he stated:

So crucial is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first five years of life.

CHILD AND FAMILY SERVICES ACT

Mr. President, I would like to summarize at this point the key elements and principles in the legislation we are introducing today.

First, and above all, this legislation is grounded on the belief and recognition that families are the primary and most fundamental influence on children, and that child and family services programs must build upon and strengthen the role of the family. That is why our bill is designed to maximize parent control and strengthen family life. That is why the programs under this legislation are totally voluntary—available only for children whose parents request them. That is why parents whose children are served under these programs will compose at least 50 percent of the governing boards—which decide what services will be offered, which programs will be funded, and what curriculums, policies, and personnel shall be approved.

And that is why our bill provides a wide variety of services—including part-day child care such as Head Start, in-the-home services to children and their families, full-day child care, after school child care, prenatal care, medical services for new mothers to reduce the incidents of preventable birth defects, and health diagnosis and treatment programs. By a combination of these provisions—the totally voluntary nature, the parent control, and the wide variety of programs available—we are assuring that families will have the options and supports available that they find are necessary.

Second, our bill is designed to assure that any services made available are quality services. Programs funded under this act must meet the 1968 Federal interagency day care requirements, and any improvements thereto promulgated after enactment of this bill. It is not

enough simply to provide mind numbing, custodial care for children while their parents work, or health and education services that are third rate, and our bill is drafted specifically to prevent that.

Third, our bill is designed to make services available to a broad range of families who need them. For that reason, services would be free for families with incomes below the lower living standard budget as determined annually by the Bureau of Labor Statistics in the Department of Labor. This is our Government's most realistic measure of the minimum amount a family needs to survive in this country. Currently, the lower living standard budget for an average family of four is $8,118. Under our bill services would be free to families of incomes up to that level, adjusted for family size, and a sliding fee schedule would begin at that point to permit families with incomes above that level to participate at fees they could afford. Sixty-five percent of the funds under this bill would be reserved for serving children from families with incomes up to the lower living standard budget, with up to 35 percent of the funds available to serve children with families with higher incomes.

Fourth, the authorizations in our bill are designed to provide a for a 1-year phase-in for planning and training and then steady growth at amounts that could be efficiently and effectively absorbed. During the first year of the bill, we provide $150 million for planning, training, and technical assistance.

This unique planning year is designed to assure that money which becomes available in subsequent years can be used to its full effectiveness. In the second year of the bill, $200 million are authorized for continued planning and preparation, with $500 million available for upgrading and improving programs. The third and final year of this bill provides a $1 billion authorization for upgrading and improving services and programs.

Fifth, the bill provides heavy emphasis on training. Assistance is authorized to local programs for inservice-preservice training, for professional and paraprofessional personnel, especially family members and members of the community. We view this as one of the key elements in our effort to upgrade the kind of care available to children of working parents.

Sixth, the administrative or delivery system in this bill provides that programs would be administered through a system of State and local governmental "prime sponsors," if they meet the criteria and can administer programs effectively, efficiently and in a coordinated fashion. But I want to emphasize at this point that we do not have the final answer to the question of what delivery system is best. Our goal is to explore this question very deeply throughout the hearings and investigations of this bill. We want to develop a system that will insure parental involvement, local diversity to meet local needs, and appropriate State involvement to assure coordination and maximum use of sources available. We intend to invite testimony and views from representatives from Federal, State, and local governments, child and family service specialists, as well as other experts as we seek to discover the best allocation of administrative responsibility among the various levels of government.

Mr. President, before inserting additional material in the RECORD describing the bill, as well as a copy of the bill itself, let me emphasize one final point. This bill is designed to provide the substance necessary to achieve the national commitment called for 5 years ago. It is our best thinking, after 5 years of legislative investigation, and passage of several previous bills, about the way to best provide for the wide variety of programs and services that families need. But nothing in this bill is etched in stone.

We want the advice and counsel of families, and of a wide variety of individuals and organizations experienced and knowledgeable about child care and child services from all sections of the country as we begin hearings and investigations on this bill. I believe I speak for all the sponsors of this legislation, when I say that we are open, indeed anxious, to receive suggestions and recommendations about ways to strengthen and improve this bill.

Mr. President, I ask uanimous consent that a copy of the bill itself be printed at this point for the information of my colleagues and interested citizens.

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

S. 3754

A bill to provide for services to children and their families, 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 "Child and Family Services Act of 1974".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the family is the primary and the most fundamental influence on children;

(2) child and family service programs must build upon and strengthen the role of the family and must be provided on a voluntary basis only to children whose parents or legal guardians request such services, with a view toward offering families the options they believe are most appropriate for their particular needs;

(2) although there have been increased services for children of working mothers and single parents and although Head Start and similar programs have provided supplemental educational and other services for children, such services have not been made available to families to the extent that parents conside necessary, there are many other children whose parents are working full or part time without adequate arrangements for their children, and there are many children whose families lack sufficient resources who do not receive adequate health, nutritional, educational and other services;

(3) it is essential that the planning and operation of such programs be undertaken as a partnership of parents, community, private agencies and State and local government with appropriate supportive assistance from the Federal Government.

(b) It is the purpose of this Act to provide a variety of quality child and family services in order to assist parents who request such services, with priority to those preschool children and families with the greatest economic or human needs, in a manner designed to strengthen family life and to insure decisionmaking at the community level, with direct participation of the parents of the children served and other individuals and organizations in the community interested in child and family service (making the best possible use of public and private resources), through a partnership of parents, State and local government and the Federal Government, building upon the experience and success of Head Start and other existing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) For the purpose of providing training, technical assistance, planning, and such other activities as the Secretary deems necessary and appropriate to plan for the implementation of this Act, there is authorized to be appropriated $150,000,000 for the fiscal year ending June 30, 1975, and $200,000,000 for the fiscal year ending June 30, 1976, to be allocated as prescribed in section 103.

(b) There is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1976, and $1,000,000,000 for the fiscal year ending June 30, 1977, except that no funds are authorized to be appropriated for either fiscal year, unless funds appropriated to carry out the Project Headstart program described in section 222(a)(1) of the Economic Opportunity Act of 1964 for such years, or for any successor program are at least equal to the greater of (1) the amount appropriated to carry out such program for the fiscal year ending June 30, 1974, or (2) the amount appropriated to carry out such program for the fiscal year ending June 30, 1975. Any such amounts appropriated for a fiscal year which are not obligated at the end of such fiscal year shall remain available for obligation until expended.

FORWARD FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act such funding for grants, contracts, or other payments under this Act is authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which it shall be available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

TITLE I—CHILD AND FAMILY SERVICE PROGRAMS

OFFICE OF CHILD AND FAMILY SERVICES; SPECIAL COORDINATING COUNCIL

SEC. 101. (a) The Secretary shall take all necessary action to coordinate child and family service programs under his jurisdiction. To this end, he shall establish and maintain within the Office of the Secretary of the Department of Health, Education, and Welfare an Office of Child and Family Services administered by a Director appointed by the President with the advice and consent of the Senate, which office shall assume the responsibilities of the Office of Child Development and shall be the principal agency of the Department for the administration of this Act.

(b) A Child and Family Services Coordinating Council, consisting of the Director of the Office of Child and Family Services established under subsection (a) (who shall serve as chairperson), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet on a regular basis, as they may deem necessary, in order to assure coordination of child and family

service activities under their respective jurisdictions so as to assure—

(1) maximum use of available resources through the prevention of duplication of activities;

(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this Act;

(3) the establishment and maintenance of procedures to insure that each office or agency of the Federal Government conducting child and family services and related activities is aware of the administrative actions of other offices or agencies with respect to the provision of financial assistance to eligible applicants; and

(4) recommendation of priorities for federally funded research and development activities related to the purposes of this Act.

FINANCIAL ASSISTANCE

SEC. 102. (a) The Secretary of Health, Education, and Welfare through the Office of Child and Family Services, shall provide financial assistance for carrying out child and family service programs for children and their families under this title to prime sponsors (including educational agencies) and to other public and private nonprofit agencies and organizations pursuant to applications and plans approved in accordance with the provisions of this title.

(b) Funds available for this title may be used (in accordance with approved applications and plans) for the following services and activities:

(1) planning and developing child and family service programs;

(2) establishing, maintaining, and operating child and family service programs, which may include—

(A) part-day or full-day child care programs, in the child's own home, in group homes, or in other child care facilities, which provide the educational, health, nutritional, and social services directed toward enabling children participating in the program to attain their maximum potential;

(B) other health, social, recreational, and educational programs designed to meet the special needs of children and families including before- and after-school and summer programs;

(C) family services, including in-home and in-school services, and education and consultation for parents, other family members functioning in the capacity of parents, youth, and prospective and expectant parents who request assistance in meeting the needs of their children;

(D) social services including information, consultation and referral to families that request such services to help them determine the appropriateness of child and family services and the possibility of alternative plans;

(E) (i) prenatal and other medical care, including services to expectant mothers who cannot afford such services, designed to help reduce malnutrition, infant and maternal mortality, and the incidence of mental retardation and other handicapping conditions, and (ii) postpartum and other medical services to recent mothers;

(F) programs designed (i) to meet the special needs of ethnic groups, including minority groups, Indian, migrant children, and children from families with special language needs, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of ethnic groups including minority groups which belong to their communities and the role of members of such groups in the history and cultural development of the nation and the region in which they reside;

(G) food and nutritional services;

(H) diagnosis, identification, and treatment of visual, hearing, speech, medical, dental, nutritional, and other physical, mental, psychological and emotional barriers to full participation in child and family service programs;

(I) special activities designed to identify and ameliorate identified physical, mental, and emotional handicaps and special learning disabilities as an incorporated part of programs conducted under this title;

(J) programs designed to extend child and family service gains (particularly parent participation) into kindergarten and early primary grades, in cooperation with local educational agencies;

(K) other such services and activities as the Secretary deems appropriate in furtherance of the purposes of the Act;

(3) rental, lease or lease-purchase, mortgage amortization payments, remodeling, renovation, alteration, acquisition and maintenance of necessary equipment and supplies, and to the extent authorized in section 110, construction or acquisition of facilities, including mobile facilities;

(4) preservice and inservice education and training for professional and paraprofessional personnel, including parents and volunteers, especially education and training for career development and advancement;

(5) staff and other administrative expenses of child and family service councils established and operated in accordance with section 105, and of project policy committees established and operated in accordance with section 107; and

(6) dissemination of information in the functional language of those to be served to assure that parents are well informed of child and family service programs available to them and may participate in such programs.

(c) Assistance under this title shall be made only for a program which

(1) provides for establishing and maintaining a parent policy committee to be composed of parents of children served by such program, which shall directly participate in the development and operation of such program (as described in section 107),

(2) provides for the regular and frequent dissemination of information to assure that parents of children served by such program are fully informed of program activities, and

(3) provides for regular consultation with the parents of each child regarding their child or children's development, with ample opportunity for such parents to observe and participate in their children's activities.

SEC. 103. (a) (1) From the amounts available for planning and carrying out child and family service programs under this title the Secretary shall reserve the following:

(A) not less than 10 per centum of the total amount available for carrying out this title, which shall be made available for the purposes of section 102(b)(2)(I) of this title (relating to special activities for handicapped children.).

(B) not less than that proportion of the total amount available for carrying out this title as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis;

(C) not less than that proportion of the total amount available for carrying out this title as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis;

(D) not more than 5 per centum of the total amount available for carrying out this title, which shall be made available under section 104(e)(2) of this title (relating to model programs),

(E) not less than 5 per centum of the total amount available for carrying out this title for the purposes of section 203 of this Act. (relating to monitoring and enforcement of standards)

(2) The Secretary shall allocate the remainder of the amounts available for this title (except for funds made available under section 3(c) of this Act), among the States, and within the States among local areas, so as to provide, to the extent practicable, for the geographical distribution of such remainder in such a manner that—

(A) 50 per centum thereof shall be apportioned among the States, and within each State among local areas, in proportion to the relative number of economically disadvantaged children in each State and local area, respectively;

(B) 25 per centum thereof shall be apportioned among the States, and within each State among local areas, in proportion to the relative number of children through age five in each State and local area, respectively; and

(C) 25 per centum thereof shall be apportioned among the States, and within each State among local areas, in proportion to the relative number of children of working mothers and single parents in each State and local area, respectively.

For the purposes of clauses (A), (B), and (C) of this paragraph, there shall be excluded those children who are counted under clauses (B) and (C) of subsection (a)(1) of this section.

(b) Not more than 5 per centum of the total funds apportioned for use within a State pursuant to subsection (a)(2) may be made available for grants to the State to carry out the provisions of section 108 of this title.

(c) Any portion of any apportionment under subsection (a) for a fiscal year which the Secretary determines after notice to the States and local areas involved will not be required, for the period for which such apportionment is available, for carrying out programs under this title shall be available for reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States or local areas on an equitable basis, taking into account the original apportionments to the States and local areas. Any amount reapportioned to a State or local area under this subsection during a year shall be deemed part of its apportionment under subsection (a) for such year.

(d) In determining the numbers of children for purposes of allocating and apportioning funds under this section, the Secretary shall use the most recent satisfactory data available to him.

(e) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allocations and apportionments required by this section.

STATE AND LOCAL PRIME SPONSORS

SEC. 104. (a) In accordance with the provisions of this section, a State, locality, or combination of localities meeting the requirements of this part may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out programs under this title, upon the approval by the Secretary of an application for prime sponsorship which—

(1) describes the prime sponsorship area to be served;

(2) demonstrates the applicant's capability of administering a child and family service program meeting the requirements of this title, including the coordination of delivery of services within the prime sponsorship area of other public agencies operating programs relating to child care necessary for efficient delivery of services under this Act;

(3) provides assurances satisfactory to the Secretary that the non-Federal share requirements of the Act will be met;

(4) sets forth satisfactory provisions for establishing and maintaining a Child and

Family Service Council which meets the requirements of section 104;

(5) provides that the prime sponsor shall be responsible for developing and preparing for each fiscal year a plan in accordance with section 106 and any modification thereof and for selecting or establishing an agency or agencies to administer and coordinate child and family service programs in the prime sponsorship area;

(6) sets forth arrangements under which the Child and Family Service Council will be responsible for approving child and family service plans, basic goals, policies, procedures, overall budget policies and project funding, and the selection or establishment and annual renewal of any agency or agencies under paragraph (5) of this section and will be responsible for annual and ongoing evaluation of child and family service programs conducted in the prime sponsorship area according to criteria established by the Secretary;

(7) provides assurances that staff and other administrative expenses for the Child and Family Service Councils and Local Program Councils and Project Policy Committees will not exceed 5 per centum of the total cost of child and family service programs administered by the prime sponsors unless such per centum limitation is increased to give special consideration to initial cost in the first operational year, in accordance with regulations which the Secretary shall prescribe;

(b) The Secretary shall approve a prime sponsorship application submitted by a locality which is a (1) city, (2) county, or (3) other unit of general local government, or by a combination of such localities, if he determines that the application so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive and effective child and family service programs in the area of such locality. In the event that the area under the jurisdiction of a unit of general local government described in clause (1), (2), or (3) of the preceding sentence includes any common geographical area with that covered by another such unit of general local government, the Secretary shall designate to serve such area the unit of general local government which he determines has the capability of more effectively carrying out the purposes of this part with respect to such area and which has submitted an application which meets the requirements of this section and includes adequate provisions for carrying out comprehensive child care and family service programs in such area.

(c) The Secretary shall approve a prime sponsorship plan submitted by a State, except for areas with respect to when local prime sponsors are or will be otherwise designated pursuant to this section, if he determines that the plan so submitted meets the requirements of this section and sets forth adequate arrangements for serving all geographical areas under its jurisdiction, and that the plan:

(1) meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out child and family services programs in each such area;

(2) divides those areas within the State for which no prime sponsor has been designated under subsection (c) of this section into local service areas, with due consideration in making such decisions being given to compactness, contiguity, and community of interest;

(3) provides:

(A) for establishing and maintaining with respect to each local service area a local program council composed so that (i) not less than half of the members who shall be chosen initially by parents who are recipients of federally assisted day care services, with equitable and appropriate consideration to parents selected by the parent members of Headstart policy committees where they exist, and at the earliest practicable time by the parent members of project policy committees, and (ii) the remainder shall be public members broadly representative of the general public, appointed by the chief executive officers or the governing bodies, as appropriate, of the units of general local government within the local program area;

(B) that the comprehensive child care and family service plan to be submitted by the State which affects each such area is developed and prepared with the full participation and approval of the appropriate local program council; and

(C) that contracts for the operation of programs through public or private nonprofit agencies or organizations shall be entered into only if previously approved by the local program council for the appropriate local service area; and

(4) contains assurances that any local program council may appeal directly to the Secretary whenever such council alleges that with respect to its portion of the child and family service plan the State has failed to comply with the provisions of such plan or the provisions of the Act.

(e) In addition to prime sponsors designated under subsections (a), (b), and (c) of this section, the Secretary may fund directly:

(1) an Indian tribe on a Federal or State reservation if he determines that such Indian tribe has the capacity to carry out child and family service programs in the area to be served;

(2) a public or private nonprofit agency, including but not limited to an educational agency or institution, a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization or migrant agricultural workers, organization of Indians, employer organization, labor union, or employee or labor-management organization, which submits a proposal:

(i) to provide child and family services in an area possessing a commonality of interest where no prime sponsor has been designated, or where the prime sponsor is found not to be satisfactorily implementing child and family services programs;

(ii) to provide child and family services programs on a year-round basis to children of migrant agricultural workers and their families; or

(iii) to carry out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, or bilingual children and their families.

(f) When any prime sponsor is maintaining a pattern or practice of discrimination against minority group children or economically disadvantaged children, the Secretary shall designate for prime sponsorship an alternative unit of government of public or private agency or organization in the area which will equitably serve minority group children and economically disadvantaged children.

(g) The Governor shall be given not less than thirty nor more than sixty days to review applications for prime sponsorship designation submitted by any applicant within the State other than the State, to offer recommendations to the applicant, and to submit comments to the Secretary.

(h) A prime sponsorship application submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such application, including a statement of the reasons therefor, (2) a reasonable time in which to submit corrective amendments to such application or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(i) (1) If any party is dissatisfied with the Secretary's final action under subsection (h) with respect to the disapproval of its application submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

CHILD AND FAMILY SERVICE COUNCILS

SEC. 105. (a) Each prime sponsor designated under section 104 shall establish and maintain a Child and Family Service Council composed of not less than ten members as follows—

(1) not less than half the members of such Council shall be parents of children served in programs under this Act chosen in accordance with the provisions of paragraph (1) of subsection (b) of this section;

(2) the remaining members shall be appointed by the prime sponsor, in consultation with the parent members described in paragraph (1) to be broadly representative of the general public, including representatives of private agencies and organizations concerned with or operating programs relating to child and family services and at least one person who is particularly skilled by virtue of training or experience in child and family services;

(3) at least one-third of the total membership of the Child and Family Service Council shall be persons who are economically disadvantaged. Each Council shall select its own chairperson; and

(4) in establishing a Child Development and Family Service Council under this section, the prime sponsor shall give due consideration to the membership of child care and day care coordinating bodies then existing in the area to be served.

(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 104 shall provide, with respect to the Child and Family Service Councils established and maintained by such prime sponsor, that—

(1) the parent members described in paragraph (1) of subsection (a) of this section shall be democratically selected by parents as follows:

(A) in the case of Councils established by prime sponsors which are States, by the parent members of local program councils established under section 104(d)(3); and

(B) in the case of Councils established by prime sponsors other than States (and by States with respect to local program councils), initially by parents who are recipients of federally assisted child care services, with equitable and appropriate consideration to parents selected by the parent members of Headstart policy committees and, at the earliest practicable time, by the parent members of project policy committees established under secton 107(b)(2);

(2) the terms of office and any other policies and procedures of an organizational nature, including nomination and election procedures, are appropriate in accordance with the purposes of this Act;

(3) such Council shall be responsible for approving child and family service plans, basic goals, policies, procedures, overall budget policies and project funding, and the selection or establishment and annual renewal of an administering agency or agencies and will be responsible for annual and ongoing evaluation of child and family service programs according to criteria established by the Secretary; and

(4) such Council shall, upon its own initiative or upon request of a project applicant or any other party in interest, conduct public hearings before acting upon applications for financial assistance submitted by project applicants under this part.

CHILD AND FAMILY SERVICE PLANS

SEC. 106. (a) Financial assistance under this title may be provided by the Secretary for fiscal year 1975 and any subsequent fiscal year to a prime sponsor designated pursuant to section 104 only pursuant to a child and family service plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this title.

(b) Any such plan shall set forth a program for providing child and family service in the prime sponsorship area which—

(1) provides that programs or services under this title shall be provided only for children whose parents request them;

(2) identifies child and family service needs and goals within the area and describes the purposes for which the financial assistance will be used, giving equitable consideration to the needs of children from each minority group and significant segment of the economically disadvantaged residing within the prime sponsorship area;

(3) meets the needs of children and families in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, with priority for services to children who have not attained six years of age;

(4) provides that programs receiving funds under section 3(b) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of such funds for the purpose of serving economically disadvantaged children;

(5) gives priority thereafter to providing services to children of working mothers and single parents not covered under paragraph (4);

(6) provides that, to the extent feasible, each program within the prime sponsorship area shall include children from a range of socioeconomic backgrounds;

(7)(A) provides that no charge will be made with respect to any child who is economically disadvantaged, except to the extent that payment will be made by a third party; and

(B) provides pursuant to criteria established in regulations promulgated by the Secretary as required by Section 205, an appropriate and flexible fee schedule for children who are not economically disadvantaged, designed to permit enrollment or continued participation in the program as family income increases and based upon the size of the family, and its ability to pay, which shall provide for appropriately reduced charges for less than full day care, and shall provide that payment may be made in whole or in part by a third party in behalf of a family, with provision for waivers in cases of need.

(8) provides comprehensive services—

(A) to meet the special needs of minority group children and children of migrant agricultural workers with particular emphasis on the needs of children from bilingual families for the development of skills in English and in the other language spoken in the home, and

(B) to meet the needs of all children to understand the history and cultural background of minority groups within the prime sponsorship area;

(9) provides for direct parent participation in the conduct, overall direction, and evaluation of programs;

(10) provides that, insofar as possible, unemployed or low-income persons residing in communities being served by such projects will be employed therein, including in-home and part-time employment and opportunities for training and career development, provided that no person will be denied employment in any program solely on the grounds that such person fails to meet State or local teacher certification standards;

(11) includes a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

(12) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and other interested persons in the community are fully informed of the activities of the prime sponsor, Child and Family Service Council, project applicants, and project policy committees;

(13) sets forth provisions describing any arrangements for the delegation, under the supervision of the Child and Family Service Council, to public or private agencies, institutions, or organizations, of responsibilities for the delivery of programs, services, and activities for which financial assistance is provided under this Act or for planning or evaluation services to be made available with respect to programs under this Act;

(14) provides procedures for the approval of project applications submitted in accordance with section 107, including procedures for priority consideration of applications submitted by public and private nonprofit agencies and organizations with ongoing child development programs;

(15) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to meet the needs of children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

(16) provides for coordination of other child care and related programs (including those relating to manpower training and employment) within the prime sponsorship area with the programs assisted under this Act, including procedures and mechanisms to provide continuity between programs for preschool and elementary school children;

(17) provides for such monitoring and evaluation procedures including licensing, inspection, and enforcement activities as may be necessary to assure that programs in the prime sponsorship area funded under this Act meet the applicable Federal standards as prescribed in section 201 of this Act;

(18) provides, to the extent practicable, for the use of financial assistance and services available from state and local government, federal sources other than those provided in this Act, and private charitable sources with respect to activities and services under the plan; and

(19) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor.

(c) No child and family service plan or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

(1) the educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary;

(2) each community action agency or single-purpose Headstart agency in the area to be served responsible for the administration of programs under this part or under section 222(a)(1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

(3) in the case of a plan submitted by a prime sponsor other than the State the Governor of that State or the State Child and Family Service Council has had an opportunity to submit comments to the prime sponsor and to the Secretary.

(d) A comprehensive child and family service plan submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided—

(1) written notice of intention to disapprove such plan, including a statement of the reasons therefor,

(2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and

(3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

PROJECT APPLICATIONS

SEC. 107. (a) Funds may be provided by the prime sponsor for carrying out any program under such prime sponsor's comprehensive child and family service plan only to a qualified public or private agency or organization, including but not limited to an educational agency or institution, a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, organization interested in child care, employer or business organization, labor union, or employee or labor management organization.

(b) Financial assistance under this title may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted to the Child and Family Service Council by a public or private agency and which—

(1) describes the project, identifies the children and families it is designed to serve, and provides for the necessary such comprehensive services.

(2) provides for establishing and maintaining a parent policy committee composed of not less than ten members as follows—

(A) not less than half of the members of each such committee shall be parents of children served by such project, democratically selected by parents of children served by the project, and

(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community and who are approved by the parent members, and (ii) at least one person who is particularly skilled by virtue of training or experience in child care, child health, child welfare, or other child care services, except that the Secretary may waive the requirement of this clause where he determines, in accordance with regulations that such persons are not available to the area to be served;

(3) provides for direct participation of such parent policy committee in the development and preparation of project applications under this title;

(4) assures that the parent policy committee shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, and for planning, overall conduct, personnel budgeting, location of centers and facilities, and direction and evaluation of projects, including approval of the project director and any project applications and modifications thereof;

(5) makes adequate provision for training and other administrative expenses of such parent policy committee (including necessary expenses to enable low-income members to participate in committee meetings);

(6) assures that services shall be provided without charge to any child who is economically disadvantaged except to the extent that payment will be made by a third party, and that charges will be made to any child who is not economically disadvantaged

according to the fee schedule established pursuant to section 106(b)(7)(B);

(7) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

(8) provides opportunities for the direct participation of parents, older, siblings, and other family members in the daily activities of the programs in which their children are enrolled;

(9) assures, to the extent practicable, employment of paraprofessional aides and use of volunteers, especially parents, older children, students, older persons, and persons for careers in child development and family service programs;

(10) assures that children will in no case be excluded from the programs operated pursuant to this title because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

(11) provides for such fiscal control and fund accounting procedures as the prime sponsor shall prescribe to assure proper disbursement of and accounting for Federal funds.

(c) A project application may be approved by a prime sponsor upon its determination that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's comprehensive child and family service plan as approved pursuant to section 106.

(d) A project application from a public or private agency seeking funds under section 104(d) shall be submitted directly to the Secretary, and may be approved by the Secretary upon his determination that it meets the requirements of subsection (b) of this section.

(e) A prime sponsor may disapprove a project application only if it provides to the project applicant a written statement of the reasons therefor. Such project applicant may submit an appeal to the Secretary requesting the direct approval of such application or modification thereof. Any such appeal shall include such comments, including the project applicant's response to the prime sponsor's statement of reasons for disapproval, as the project applicant may deem appropriate or as the Secretary may require.

SPECIAL GRANTS TO STATES

SEC. 108. (a) Upon application submitted by any State, the Secretary is authorized to provide financial assistance for use by such State for carrying out activities for the purposes of—

(1) establishing a child and family services information program, in order to improve their quality and availability and improve the accessibility of such services to parents who need them;

(2) identifying child and family service goals and needs within the State;

(3) coordinating all State child and family services, and encouraging the cooperation and participation of State agencies in providing such services, including health, family planning, mental health, education, nutrition, and family, social and rehabilitative services where requested by appropriate prime sponsors in the development and implementation of comprehensive child and family service plans;

(4) encouraging the full use of resources and facilities for child and family service programs within the State;

(5) developing, enforcing, and assessing State codes for licensing child and family service facilities within the State;

(6) assisting public and private agencies and organizations in the acquisition or improvement of facilities for child and family service programs;

(7) assisting in the establishment of Child and Family Service Councils and strengthening the capability of such Councils to effectively plan, supervise, coordinate, monitor, and evaluate child and family service programs;

(8) developing information useful in reviewing prime sponsorship applications under section 104 and of comprehensive child and family service plans under section 106.

(b) In order to receive funds under this section, a State shall establish a Child and Family Service Council as prescribed in section 104(a).

(c) Funds received by the State under this section shall be in addition to any funds such State may receive under this title pursuant to an approved prime sponsorship application and comprehensive child and family service plan.

ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION OR ACQUISITION

SEC. 109. (a) Applications for financial assistance for projects including construction or acquisition may be approved only if the prime sponsor, or the Secretary in cases of applications submitted for his approval, determines that construction or acquisition of such facilities is essential to the provision of adequate child care services, and that rental, lease, or lease-purchase, remodeling, or renovation of adequate facilities is not practicable.

(b) If any facility assisted under this title shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loan shall be repaid, but such interest rate shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

(e) The Federal assistance for construction, remodeling, renovation, alteration, or acquisition of facilities, may be in the form of grants or loans. Repayment of loans shall, to the extent required by the Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this title shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction. Financial assistance for construction or acquisition of facilities pursuant to this Act shall be available only to public and private nonprofit agencies, institutions and organizations.

USE OF PUBLIC FACILITIES FOR CHILD AND FAMILY SERVICE PROGRAMS

SEC. 110. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within eighteen months after enactment of this Act report to the Congress with respect to the extent to which facilities owned or leased by Federal departments, agencies, and independent authorities could be made available to public and private agencies and organizations, through appropriate arrangements, for use as facilities for child and family service programs under this title during times and periods when not utilized fully for their usual purposes, together with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

(b) The Secretary may require, as a condition to the receipt of assistance under this title, that any prime sponsor under this title agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies in the prime sponsorship area, could be made available, through appropriate arrangements, for use as facilities for child and family service programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsor's proposed actions for such use.

PAYMENTS

SEC. 111. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 103 the Federal share of the costs of programs, services, and activities, in accordance with plans or applications which have been approved as provided in this title. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child and Family Service Councils and for parent policy committees, consistent with limitations contained in this title.

(b) The Secretary shall pay from funds appropriated under section 3(a) for fiscal year 1975 an amount equal to 100 per centum of the cost of planning, training, and technical assistance.

(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay from funds appropriated under section 3(b) for fiscal year 1976 an amount not in excess of 90 per centum and from funds appropriated under section 3(b) for fiscal year 1977 and subsequent years an amount not to exceed 80 per centum of the cost of carrying out programs, services, and activities under this title. The Secretray may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child and family service needs of economically disadvantaged children.

(2) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child and family service programs for children of migrant agricultural workers under this title.

(3) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child and family service programs for children in Indian tribal organizations under this title.

(c) The non-Federal share of the costs of programs assisted under this title may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, or union or employer contributions. Fees collected for services shall not be used for the non-Federal share, but shall be used by the prime sponsor to improve and expand programs under the comprehensive child development and family service plan.

(d) If, with respect to any fiscal year, a

prime sponsor or project applicant provides non-Federal contributions or any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements, for such contributions for the subsequent fiscal year under this title.

(e) No State or unit of general local government shall reduce its expenditures for child development or child care programs by reason of assistance under this title.

TITLE II—STANDARDS, ENFORCEMENT, AND EVALUATION

FEDERAL STANDARDS FOR CHILD CARE

SEC. 201. (a) (1) Within six months after the enactment of this Act, the Secretary may after consultation with other Federal agencies and with the approval of the committee establish pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child care services under this or any other Federal Act, to be known as the Federal Standards for Child Care. If the Secretary disapproves the committee's recommendtaions, he shall state the reasons therefor.

(2) Such standards shall replace but shall be consistent with the Federal Interagency Day Care Requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. The 1968 requirements will continue to apply to all applicable programs until program standards authorized by subsection (a) are in effect.

(3) Not less than 60 days prior to implementation of program standards pursuant to paragraph (a) of this section, the Secretary shall submit such proposed program standards to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Upon majority vote of either Committee within such sixty days disapproving such proposed program standards, such standards shall not take effect.

(b) The Secretary shall establish policies and procedures, in accordance with regulations which he shall prescribe, to assure that all programs and projects assisted under this Act address, on a continuing basis, the individual needs of and the appropriateness of child and family service for very young children served—

(1) any program or project providing care outside the home for very young children shall be reviewed and evaluated periodically and frequently by the Secretary, to insure that it meets the highest standards of quality; and the Secretary may reserve such funds as he deems necessary from funds available under this Act for the purpose of evaluation, by appropriate persons, of programs under this Act in order to insure compliance with subsections (a) and (b) of this section.

(2) no program or project described in clause (1) of this subsection shall be approved for assistance under this Act unless it is specifically authorized and approved by the Secretary.

(c) (1) Upon determination that a prime sponsor or project is in violation of one or more of the provisions of this section, the Secretary shall give immediate public notice of such determination to such prime sponsor or project and, if such violation or violations have not been corrected, shall commence action within ninety days of such determination to withhold funds under section 204.

(2) Upon determination that a project is in violation of one or more of the provisions of this section, the prime sponsor shall give immediate notice of such determination to such project and, if such violation or violations have not been corrected, shall commence action within ninety days of such determination to withhold funds under section 204.

(d) The Secretary shall, within sixty days after enactment of this Act, appoint a Special Committee on Federal Standards for Child Care, which shall include parents of children enrolled in Headstart and child care programs, representatives of public and private agencies and organizations administering such programs, specialists, and other public and private providers of child and family services, individuals engaged in licensing activities, and others interested in services for children. Not less than one-half of the membership of the committee shall consist of parents of children participating in programs conducted under title I of this Act and section 222(a) of the Economic Opportunity Act of 1964 and title IV–A of the Social Security Act, or other public programs providing child and family services. Such committee shall participate in the development of Federal Standards for Child Care and modifications thereof as provided in subsection (a).

(e) In no event shall any prime sponsor or program or project receiving assistance under this Act reduce the quality of services provided under this Act below the standards established in this section.

DEVELOPMENT OF UNIFORM CODE FOR FACILITIES

SEC. 202. (a) The Secretary shall, within sixty days after the date of enactment of this Act, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child and family services facilities. Such standards shall deal principally with these matters essential to the health, safety, and physical comfort of the children and the relationship of such matters to the Federal Standards for child care developed under section 201.

(b) The special committee appointed under this section shall include parents of children enrolled in comprehensive child services programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering comprehensive child services programs, and national agencies or organizations interested in services for children. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under this title, section 222 (a) (1) of the Economic Opportunity Act of 1964, and title IV of the Social Security Act.

(c) Within six months of its appointment, the special committee shall complete a proposed uniform code and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

(d) The Secretary must approve the code as a whole or secure the concurrence of the special committee to changes therein, and, upon approval, such standards shall be applicable to all facilities receiving Federal financial assistance under this Act or in which programs receiving such Federal financial assistance are operated; and the Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with the procedures described in subsections (a) through (d).

PROGRAM MONITORING AND ENFORCEMENT

SEC. 203. The Secretary shall provide, through the Office of Child and Family Services, for regular and periodic monitoring of programs under this Act to assure compliance with the child care standards and other requirements of this Act, and shall provide for the establishment and maintenance of sufficient trained staff in such office to accomplish the purpose of this section.

WITHHOLDING OF GRANTS

SEC. 204. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any prime sponsor, or project applicant, finds—

(1) that there has been a failure to comply substantially with any requirement set forth in the plan of any such prime sponsor approved under section 106; or

(2) that there has been a failure to comply with applicable standards pursuant to section 201; or

(3) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 107; or

(4) that in the operation of any plan, program, or project carried out by any such price sponsor, or project applicant or other recipient of financial assistance under this Act there is a failure to comply substantially with any applicable provision of this Act or regulation promulgated thereunder;

the Secretary shall notify such prime sponsor, project applicant, or other recipient of his findings and that no further payments may be made to such sponsor, project applicant, or other recipient under this Act (or in the Secretary's discretion that any such prime sponsor shall not make further payments under this Act to specified project applicants affected by the failure) until he is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this Act which is being carried out pursuant to such plan or application and which is not involved in any noncompliance.

CRITERIA WITH RESPECT TO FEE SCHEDULE

SEC. 205(a) Not later than 180 days after the enactment of this Act, the Secretary shall by regulation establish criteria for the adoption of fee schedules by prime sponsors as provided in Section 106(b) (7) (B) of this Act. Such criteria shall be designed to permit enrollment or continued participation in the program as family income increases, shall be based on family size, and ability to pay, and shall provide for appropriately reduced charges for less than full-day care, and shall be appropriately adjusted for regional and urban-rural differences in the cost of living or determined by the Bureau of Labor Statistics.

(b) Not less than 60 days prior to implementation of the criteria established by the Secretary pursuant to paragraph (B) of this section, the Secretary shall submit such proposed criteria to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Upon a majority vote of either committee disapproving such proposed criteria, such criteria shall not take effect and the Secretary shall within 60 days promulgate revised criteria. Such revised criteria, and any revision to criteria established pursuant to this section shall be subject to the requirements of this section.

EVALUATION

SEC. 206. (a) The Secretary shall make an evaluation of Federal involvement in child and family services, which shall include—

(1) enumeration and description of all Federal activities which affect child and family service programs;

(2) analysis of expenditures of Federal funds for such activities and services;

(3) determination of the effectiveness of such activities and services;

(4) the extent to which preschool, minority group, and economically disadvantaged children and their parents have participated in programs under this Act; and

(5) such recommendations to Congress as the Secretary may deem appropriate.

(b) The results of the evaluation required by subsection (a) of this section shall be reported to Congress not later than two years after enactment of this Act.

(c) The Secretary shall establish such procedures as may be necessary to conduct an annual evaluation of Federal involvement in child and family services programs, and shall

report the results to each such evaluation to Congress.

(d) Prime sponsors and project applicants assisted under this Act and departments and agencies of the Federal Government shall, upon request by the Secretary or the Comptroller General of the United States make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under subsection (c) of this section, or the Comptroller General determines is necessary for an independent evaluation.

(e) The Secretary may enter into contracts with public or private nonprofit agencies, organizations, or individuals to carry out the provisions of this section.

(f) The Secretary shall reserve for the purposes of this section not less than 1 per centum, but not more than 2 per centum, of the amounts available under section 3(b) of this Act for any fiscal year.

TITLE III—RESEARCH AND DEMONSTRATIONS

SEC. 301. (a) The Secretary is authorized to carry out a program of research and demonstration projects, which shall include but not be limited to—

(1) research to develop techniques to measure and evaluate child and family services, and to develop standards to evaluate professional and paraprofessional child and family service personnel;

(2) research to test preschool programs emphasizing reading and reading readiness;

(3) preventive medicine and techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases and learning disabilities of preschool children;

(4) research to test alternative methods of providing child and family service;

(5) evaluation of research findings and the development of these findings and the effective application thereof;

(6) dissemination and application of research and development efforts and demonstration projects to child and family service and related programs of early childhood advisory services where feasible;

(7) production of informational systems and other resources necessary to support the activities authorized by this Act;

(8) a study of the need on a nationwide basis for child and family services programs and of the resources, including personnel, which are available to meet this need.

(b) In order to carry out the program provided for in this section, the Secretary is authorized to make grants to or enter into contracts or other arrangements with public or nonprofit private agencies (including other Government agencies), organizations, institutions, and individuals.

(c)(1) The Secretary shall coordinate, through the Office of Child and Family Services established under section 101(a), all child and family services, research, training, and development efforts conducted within the Department of Health, Education, and Welfare and, to the extent feasible, by other agencies, organizations, and individuals.

(2) Funds available to any Federal department or agency for the purposes of this title shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Secretary for such use as is consistent with the purposes for which such funds were provided, and the funds so transferred shall be expendable by the Secretary through the Office of Child and Family Services established under section 101(a), for the purposes for which the transfer was made.

(d) The Secretary shall conduct special demonstration, and model programs, which demonstration, and model programs shall be subject to the fullest extent practicable to each of the requirements with respect to project applications under section 107.

(e) The Secretary shall report to Congress not later than September 1, 1975, summarizing his activities and accomplishments under this section during the preceding fiscal year and the grants, contracts, or other arrangements entered into and making such recommendations (including recommendations for legislation) as he may deem appropriate.

TITLE IV—TRAINING OF PERSONNEL FOR CHILD AND FAMILY SERVICES

PRESERVICE AND INSERVICE TRAINING

SEC. 401. The Secretary is authorized to make payments to provide financial assistance to enable individuals employed or preparing for employment in child and family services programs assisted under this Act, including volunteers, to participate in programs of preservice or inservice training for professional and nonprofessional personnel, to be conducted by any agency carrying out a child and family services program, or any institution of higher education, including a community college, or by any combination thereof.

TECHNICAL ASSISTANCE AND PLANNING

SEC. 402. The Secretary shall, directly or through grant or contract, make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this Act on a continuing basis, to assist them in planning, developing, and carrying out child and family services programs.

TITLE V—GENERAL PROVISIONS

DEFINITIONS

SEC. 501. As used in this Act, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare;

(2) "State" means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(3) "child and family service programs" means programs on a full-day or part-day basis which provide or arrange for the provision of the educational, nutritional, health, and other services needed to provide the opportunity for children to attain their full potential, including services to other family members;

(4) "children" means individuals who have not attained the age of fifteen;

(5) "economically disadvantaged children" means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics at the Department of Labor;

(6) "handicapped children" includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education and related services;

(7) "program" includes any program, service, or activity, which is conducted full- or part-time in the home in schools, or in child facilities;

(8) "parent" means any person who has primary day-to-day responsibility for any child;

(9) "single parent" means any person who has sole day-to-day responsibility for any child;

(10) "working mother" means any mother who needs child or family service in order to undertake or continue full- or part-time employment, training, or education outside the home;

(11) "minority group" includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, may need special assistance, and, for the purpose of this paragraph, "Spanish-surnamed Americans" includes, but is not limited to, persons of Mexico, Puerto Rican, Cuban, or Spanish origin or ancestry;

(12) "bilingual" includes, but is not limited to persons who are Spanish-surnamed Americans, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, may need special assistance;

(13) "local educational agency" means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

(14) "unit of general local government" means any political subdivision of a State having general governmental powers.

NUTRITION SERVICES

SEC. 502. In accordance with the purposes of this title, the Secretary of Health, Education, and Welfare shall establish procedures to assure that adequate nutrition services will be provided in child and family services programs under this Act. Such services shall make use of the special food service program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966, to the fullest extent appropriate and consistent with the provisions of such Acts.

SPECIAL PROVISIONS

SEC. 503. (a) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program, program participant, or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as effecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this Act.

(c) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations and make such payments in installments and in advance or by way of reimbursement, or otherwise allocate or expand funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 504, the Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act on any term or condition of assistance under this Act.

(d) The Secretary shall not provide financial assistance for any program, service, or activity under this Act unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of—

(1) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof;

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

(e) The Secretary shall not provide financial assistance for any program under this Act unless he determines that no funds will be used for and no person will be employed under the program in the construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place for religious worship.

SPECIAL PROHIBITIONS AND PROTECTIONS

SEC. 505. (a) Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law.

(b) The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this Act unless the parent or guardian of such child informed of such research or experimentation and is given an opportunity as a right to except such child therefrom.

(c) A child participating in a program assisted under this Act shall not undergo medical or psychological examination experimentation or research, immunization (except to the extent necessary to protect the public from epidemics of contagious diseases or in cases of medical emergencies where parental consent cannot be readily obtained), or treatment without the written permission of his parent or guardian based upon full understanding of the procedures and possible consequences.

PUBLIC INFORMATION

SEC. 506. Applications for designation as prime sponsors, comprehensive child development plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public by the prime sponsor, the applicant, and the Secretary.

SEC. 507. (a) After consultation with the head of any agency of the Federal Government immediately responsible for providing Federal assistance for and family services, child care, and related programs, including title I of the Elementary and Secondary Education Act of 1965, section 222(a)(2) of the Economic Opportunity Act of 1964, title VII of the Housing and Urban Development Act of 1966, title I of the Demonstration Cities and Metropolitan Development Act of 1966 and titles IV and VI of the Social Security Act, the Secretary of Health, Education, and Welfare shall establish regulations to assure the coordination of all such programs with the programs assisted under this Act.

(b)(1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child care facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child facilities.";

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child care facilities"; and

(C) by inserting after "public health purposes" and the second sentence, the following: ", or for the operation of child care facilities,"

ACCEPTANCE OF FUNDS

SEC. 508. In carrying out the purposes and provisions of this Act, the Secretary is authorized to accept and use funds appropriated to carry out other provisions of Federal law if such funds are used for the purposes for which they are specifically authorized and appropriated.

Mr. JAVITS. Mr. President, I am pleased to join with Senator MONDALE in the introduction of the Child and Family Services Act of 1974. This bipartisan measure, cosponsored by 22 of our colleagues, including Senators BROOKE, CASE, HATFIELD, PERCY, and STAFFORD, would provide for quality child care and other vital family services; a similar measure is being introduced in the House of Representatives by Congressman BRADEMAS, joined by Representatives HANSEN, MINK, and HECKLER.

Under our proposal, the Secretary of Health, Education, and Welfare, would be authorized to fund a variety of quality child and family services assisting children and families in the Nation. Services provided under the bill would include in-the-home tutoring, education for parenthood, prenatal services, part-day and full-day and after-school programs, food and nutrition services, and information and referral services to aid families in selecting child and family services.

The program would be administered by the Office of Child and Family Services, essentially a renaming of the current Office of Child Development in the Department of Health, Education, and Welfare, through a system of State and local prime sponsors as well as educational and other institutions and, in specific circumstances other public and private grantees.

Each prime sponsor would submit a comprehensive child and family services plan which would have to be approved by a representative Child and Family Services Council. Localities demonstrating capability to administer programs would do so within their jurisdiction. State governments would administer programs in other areas and have specific funds for coordination and specific statewide efforts.

This measure builds upon the child care title which was included in the Economic Opportunity Act Amendments of 1971, which the President vetoed in December of that year, and upon the Comprehensive Headstart, Child Development and Family Services Act of 1972, jointly sponsored by Senator MONDALE and myself, which passed the Senate on June 20, 1972, but as to which no action was taken by the House of Representatives.

We are introducing this measure today—and the similar bill is being introduced in the House, in order to prompt the national debate on the need for child care which the President urged in vetoing the 1971 measure.

As evidence of our desire to enter into that debate freely and with flexibility, the measure we introduce today, while designed basically to the same objective as the previous measures, differs from them in a number of important respects.

First, the bill authorizes an aggregate of $1.8 billion over a 3-year period, compared with the 1972 Senate-passed measure which authorized $2.8 billion over a 2-year period.

Second, we have not included in this measure authority for the continuation of the Head Start program. The Economic Opportunity and Community Partnership Act of 1974, which I shall introduce shortly, with Senators KENNEDY, DOLE, and JOHNSTON, will extend the Head Start program for 3 fiscal years, through fiscal year 1977, with increased authorization of appropriations for that effort. As these bills are considered by the committee, the relationship between the efforts shall be addressed.

Third, we have not included a population requirement for localities to qualify as prime sponsors; the vetoed bill required a population of 5,000 and the 1972 passed bill required 25,000. We have left this matter open so as to be free to achieve in the final legislation the best allocation of responsibility among various levels of government, which will insure parental involvement, local diversity to meet local needs, and appropriate State participation to insure coordination and maximum utilization of available resources.

Mr. President, with this general background I shall now comment on various aspects of this bill which are particularly important to New York City and New York State.

First in terms of the need for this legislation, I note that in New York City alone there are over 1.9 million children under the age of 14 of which 742,000 are under age of 6. On the welfare roles, there are over 400,000 children under the age of 14 in families receiving AFDC. In contrast, there are approximately only 42,000 licensed day care slots funded publicly.

For New York State overall—including New York City—there are approximately 4.5 million children under the age of 14, of which 1.8 million are under the age of 6; 729,553 children are in families on the AFDC roles. Precise estimates of the number of publicly funded child care positions in the State are not available, but the number is under 70,000.

Exact allocations under this measure to the State cannot, of course, at this point in time, be determined, but as a general rule, we expect New York State to receive at least 8 percent of the total of funds available for programs in each of the 2 years of actual operation.

At a cost of approximately $2,200 for each preschool slot, this would mean that 18,182 opportunities could be funded in fiscal year 1976 and 36,364 in fiscal year 1977, from New York State's share of $500 million and $1 billion respectively.

Second, under the bill no charge would be made for services for children in families below the Bureau of Labor Statistics lower living standard, now at $8,100 a year for a family of four. This provision is crucial to families in New York City and New York State where the costs are so high that any fees below that point would effectively make it impossible for families to participate in the program. The provisions of this bill are much more realistic in this respect than those in the vetoed measure which permitted a fee schedule to be imposed above the level of $4,320 a year for a family of four.

Third, the bill includes, as did previous measures, the requirements not only that parents participate in the programs, but that they have a leading role in the development of the programs. This would be accomplished through the requirement that each prime sponsor have a Child and Family Services Council of which one-half of the members must be parents as well as a number of other provisions. The current programs in New York City and State have these elements in practice and this aspect has been a key element in their effectiveness.

Mr. President, currently in the Nation there are only 700,000 licensed day care places for 6 million preschool children with working mothers; even beyond that, as overall fact, 43 percent of the Nation's mothers work outside the home compared with 18 percent in 1948.

It is now time that the administration face up to these economic realities and the social realities which arise therefrom as well as other sources, abandon its past reluctance to make a full national commitment to providing services for families, and work with the Congress, with this measure as the vehicle, toward a proper legislative framework in which these services may be provided.

This Nation, with all of its resources, is way behind most of the other industrialized nations of the world in the provision made for children and families—a "crying" if not "fatal" gap, in terms of long-term costs to individuals and society, in our social legislation.

We seek to fill that gap through legislation which will insure, compatible with the principles of our Nation, a completely voluntary program, and in the nature of service to the family and the child with Federal, State, and local government providing only the resources and the administrative framework in which family needs may be met.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed at this point in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF CHILD AND FAMILY SERVICES BILL

Section 1. *Title*—"Child and Family Services Act of 1974."

Section 2. *Statement of Findings and Purpose*—Finds that the family is the primary and most fundamental influence on children; that child and family services must build upon and strengthen the role of the family; that such services must be provided on a voluntary basis to children whose parents request them with priority for preschool children with the greatest economic and human need; that there is a lack of adequate child and family services; and that there is a necessity for planning and operation of programs as partnership of parents, community, state and local governments, with appropriate federal supportive assistance.

Purpose is to establish and expand children and family service programs, build upon the experience of Headstart, give special emphasis to preschool children and families with the greatest needs, provide decision making with direct parent participation through a partnership of parents, State, local and Federal government.

Section 3. *Authorizations*—Authorizes $150 million for fiscal 1975 and $200 million for FY 1976 for training, planning, and technical assistance and $500 million in FY 1976 and $1 billion in FY 1977 for program operation. Headstart would be funded under separate authority, and its funding protected by a requirement that no operational funds could be appropriated for this new program unless and until Headstart is funded at the level it received in FY 1974 or FY 1975, whichever is higher.

Forward funding is authorized.

TITLE I—CHILD AND FAMILY SERVICES PROGRAMS

Section 101. Establishes office of Child and Family Services in HEW as principal agency for administration of this Act; and Child and Family Services Coordinating Council with representatives from various federal agencies to assure coordination of federal programs in the field.

Section 102. *Financial Assistance*—Defines purposes for which federal funds can be used: (1) planning and developing programs, including pilot programs; (2) establishing, maintaining and operating programs, including part-day or full-day child care in the home, in group homes, or in other child care facilities; other specially designed programs such as after-school programs; family services, including in-home and in-school services; information and referral services to aid families in selecting child and family services; prenatal care; programs to meet special needs of minorities, Indians, migrants and bilingual children; food and nutrition services; diagnosis of handicaps or barriers to full participation in child and family services programs; special activities for handicapped children within regular programs; programs to extend child and family service gains, including parent participation, into the elementary schools; (3) rental, renovation, acquisition or construction of facilities, including mobile facilities; (4) preservice and inservice training; (5) staff and administration expenses of councils and committees required by the Act; and (6) dissemination of information to families.

Section 103. *Allocation of Funds*—Reserves funds proportionately for handicapped children and for migrant and Indian children, and up to 5% for model programs.

Allocates the remainder among the states and within the states, 50% according to relative number of economically disadvantaged children, 25% according to relative number of children through age five, and 25% according to relative number of children of working mothers and single parents.

Allows use of up to 5% of a state's allocation for special state programs under Section 108.

Section 104. *Prime Sponsors*—States, localities, combinations of localities or public and non-profit organizations are eligible to serve as prime sponsors.

The bills current provisions establish performance criteria for prime sponsor: demonstrated interest in and capability of running comprehensive programs, including coordinaton of all services for children within the prime sponsorship area; assurances of non-federal share; establishment of a Child and Family Service Council (CFSC) to administer and coordinate programs.

Public or private non profit organizations can serve as prime sponsors with priority on governmental units. Any locality or combination of localities which submits an application meeting the performance criteria may be designated prime sponsor if the Secretary determines it has the capacity to carry out comprehensive and effective programs. The state may be designated prime sponsor for all areas where local prime sponsors do not apply or cannot meet the performance criteria, provided that the state meets the performance criteria and divides its area of jurisdiction into local service areas and local child and family services councils which approve the relevant portions of the state's plan and contracts for operation of programs within the local service areas.

The Secretary may fund directly an Indian tribe to carry out programs on a reservation. He may also fund public or private non-profit agencies to operate migrant programs, model programs, or programs where no prime sponsor has been designated or where a designated prime sponsor is not meeting certain needs.

Provides opportunity for Governor to comment on prime sponsorship applications and provides appeal procedure for applicants who are disapproved.

The sponsors want to particularly emphasize that as the bill is considered they intend to invite the testimony of representatives of Federal, State, and local government, as well as other experts, with respect to the best allocation of responsibility among various levels of government which will insure parental involvement, local diversity to meet local needs and appropriate State involvement to assure coordination and maximum utilization of available resources.

Section 105. *Child and Family Service Councils*—Sets forth composition, method of selection, and functions of councils. Half of members must be parents, selected by parents of children served by programs under the Act. The remaining members appointed by the prime sponsor in consultation with parent members, to be broadly representative of the general public, including representatives of private agencies in the prime sponsorship area operating programs of child and family services and at least one specialist in child and family services. At least one-third of the total council to be economically disadvantaged. The council selects its own chairperson.

A state prime sponsor must establish councils at the state level and for each local service area. Parent members of the state council to be selected by parent members of local councils.

Council approves goals, policies, action and procedures of prime sponsor, including planning, personnel, budgeting, funding of projects, and monitoring and evaluation.

Section 106. *Comprehensive Child and Family Services Plan*—Requires that prime sponsor submit plan before receiving funds. Plan must: provide services only for children whose families request them; identify needs and purposes for which funds will be used; give priority to children who have not reached six years of age; reserve 65% of the funds for economically disadvantaged children, and priority thereafter to children of single parents and working mothers; provide free services for children of families below the Bureau of Labor Statistics lower living standard budget and establish a sliding fee schedule based on ability to pay for families above that income level; include to the extent feasible, children from a range of socioeconomic backgrounds; meet the special needs of minority group, migrant, and bilingual children; provide for direct parent participation in programs, including employment of parents and others from the community with opportunity for career advancement; establish procedures for approval of project applications with special consideration for ongoing programs; provide for coordination with other prime sponsors and with other child development and related programs in the area; provide for monitoring and evaluation to assure programs meet federal standards.

Requires that the Governor, all local education agencies Headstart and community action agencies as well have the opportunity to comment on the plan.

Establishes appeal procedures if plans are disapproved.

Section 107. *Project Applications*—Provides for grants from prime sponsor to public or private organizations to carry out programs under the prime sponsor plan, pur-

suant to a project application approved by the CFSC.

The project applicant must establish a parent policy committee (PCP), 50% parents of children served by the project, at least one child care specialist, and other representatives of the community approved by the parent members. The PPC must participate in the development of project applications and must approve basic goals, policies, action and procedures of the applicant, including personnel, budgeting, location of centers, and evaluation of projects.

The application must: provide for training and administrative expenses of the PPC; guarantee free services for economically disadvantaged children with fees according to the fee schedule for other children; assure direct participation of parents and other members, including employment opportunities; provide for dissemination of information on the project to parents and the community; and assure inclusion of children regardless of participation in nonpublic school programs.

Section 108. *Special Grants to States*—Authorizes special grants to the states, on approval of Secretary, to establish a child and family services information program to assess goals and needs in state; to coordinate all state child development and related services; to develop and enforce state licensing codes for child development facilities; and to assist public and private agencies in acquiring or improving such facilities. A State must establish a Child and Family Services Council to receive a special grant.

Section 109. *Additional Conditions for Programs Including Construction or Acquisition*—Allows federal funding for construction or acquisition only where no alternatives are practicable. Provides that no more than 15% of a prime sponsor's funds may be used for construction, and that no more than half of that may be in the form of grants rather than loans.

Section 110. *Use of Public Facilities for Child and Family Services Programs*—Requires that federal government and prime sponsors make available for child and family service programs, facilities they own and lease, when they are not fully utilized for other purposes.

Section 111. *Payments*—Provides 100% federal share for planning in first year, 90% federal share for fiscal 1976 and 1977, 80% for subsequent fiscal years. Provides 100% federal share for programs for migrants and Indians, and allows waiver of part or all of non-federal share where necessary to meet needs of economically disadvantaged children.

Non-federal share may be in cash or in kind. Revenues generated by fees may not be used as non-federal share but must be used by prime sponsor to expand programs.

TITLE II—SUPPORTIVE SERVICES AND SPECIAL ACTIVITIES

Section 201. *Federal Standards for Child Care*—Requires a national committee on federal standards, with one-half parent participation, to establish standards for all child care services programs funded by this or any other federal act. The 1968 Interagency Day Care Requirements would continue to apply until such standards are promulgated, and those standards must be consistent with the 1968 Requirements.

No prime sponsor or project applicant is allowed to reduce services below these standards.

Section 202. *Development of Uniform Code for Facilities*—Requires a committee to develop a uniform minimum code dealing with health and safety of children and applicable to all facilities funded by this Act.

Section 203. *Evaluation*—Requires the Secretary to make annual evaluations and report to Congress on federal child family services activities.

TITLE III—RESEARCH AND DEMONSTRATIONS

Section 304. *Research and Demonstration*—Authorizes child and family services research and requires that the Office of Child and Family Services coordinate research by federal agencies.

TITLE IV—GENERAL PROVISIONS

Section 401. *Definitions*—Defines terms used in the Act.

Section 402. *Nutrition Services*—Requires that procedures be estabilshed to assure adequate nutrition services in programs under the Act, including use of Section 13 (special food service programs) of the School Lunch Act and the Child Nutrition Act.

Section 403. *Special Provisions*—Anti-discrimination provisions, including separate provisions on sex discrimination. Requires that programs meet the minimum wage. Prohibits use of funds for constructing, operating, or maintaining facilities for sectarian instruction or religious worship.

Section 404. *Withholding of Grants.*—may be withheld from a prime sponsor or a Establishes conditions under which grants project applicant, and procedures for doing so.

Section 405. *Special Prohibitions and Protections*—Provides that no child may be the subject of research or experimentation without parental approval, and that no child may be forced to undergo examination or treatment if parents object. Requires approval of the Secretary for child development programs for very young children.

Section 406. *Public Information*—Requires that all applications, plans, and written material pertaining thereto be made available to the public without charge.

Section 407. *Repeal or Amendment of Existing Authority and Coordination.*

By Mr. PELL:

S. 3755. A bill to exempt from social security taxes individuals 65 and over who are eligible for social security benefits and who earn wages below the poverty level. Referred to the Committee on Finance.

LOW-INCOME ELDERLY WAGE EARNERS SOCIAL SECURITY ASSISTANCE ACT OF 1974

Mr. PELL. Mr. President, today I am introducing legislation which would exempt individuals aged 65 or over who are eligible for social security benefits and who earn wages below the poverty level from paying social security payroll taxes. This bill, the "Low-Income Elderly Wage Earners Social Security Assistance Act of 1974," would simply allow the elderly, low-income worker to keep a little more of his or her paycheck.

In this time of inflation I believe we must give the elderly worker every reasonable support to encourage self-reliance, and independence. I believe that this measure would accomplish this goal in an important respect, by freeing up some extra earned income. I do not believe that we as a Nation should tax our citizens into poverty, and I am hopeful that my colleagues who share this conviction join me in support of this measure.

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

S. 3755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3101 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by inserting "(other than an individual who is exempt under subsection (c))" after "every individual" in subsections (a) and (b).

(b) Section 3101 of such Code is further amended by adding at the end thereof the following new subsection:

"(c) EXEMPTION FROM TAX IN CASE OF CERTAIN INDIVIDUALS WHO HAVE ATTAINED AGE 65.—No tax shall be imposed under subsection (a) or (b) with respect to wages received during any pay period by any individual if—

"(1) at the close of such pay period such individual has attained age 65 and is entitled, or would upon filing application therefor be entitled, to monthly insurance benefits under section 202 of the Social Security Act, and

"(2) if the wages received during such pay period are at a level which would produce, on an annual basis, an income which is less than the poverty level for the calendar year in which such wages are received.

The Secretary of the Treasury (after consultation with the Secretary of Labor and the Secretary of Health, Education, and Welfare) shall determine and publish the dollar amount of the poverty level which shall be in effect for purposes of this subsection for any calendar year. The dollar amount of the poverty level for any calendar year shall be determined and published not later than December 1, of the year immediately preceding such calendar year."

(b) The amendment made by subsection (a) shall be effective with respect to calendar years which commence after the date of enactment of this Act.

By Mr. HUMPHREY:

S. 3756. A bill to amend title 23, United States Code, the Federal-Aid Highway Act of 1973, and other related provisions of law, to increase safety on the Nation's highways and establish a National urban-rural transportation policy. Referred to the Committee on Public Works.

RURAL TRANSPORTATION LEGISLATION NEEDED

Mr. HUMPHREY. Mr. President, it gives me great satisfaction to introduce legislation designed to make improvements in our rural transportation system.

This bill deserves widespread support because the benefits will go beyond our rural areas.

A companion bill, H.R. 14283, has been introduced in the House of Representatives by Congressman BILL ALEXANDER of Arkansas.

I have pointed out many times the critical transportation problems which exist today in our rural areas. With greatly increased truck weights, our rural roads have taken a serious beating.

During some seasons of the year, our rural communities are cut off or seriously inconvenienced by broken down roads and detours.

With the decline in rail service and the abandonment of trackage in our rural areas, our farmers are increasingly dependent on road transportation.

Senator MONDALE and I have introduced S. 3438 to deal with the problems of declining railroad service in the rural areas. But, we cannot wait and hope for improvement in rail service. We need a program to make improvements in our rural roads since they are so vital to our rural economy.

In last year's Department of Agriculture Appropriation Act, we directed that a study be conducted to analyze existing data relative to the current crisis in rural transportation and provide the House and Senate with a summary of the in-

formation. An interim report was provided on April 15, 1974.

While the report's conclusions are not yet final, it indicates that the average load on rural roads has increased by more than 70 percent from 1960 to 1970.

There also has been a clear shift from railroads to trucks in the movement of fresh fruits and vegetables. And poultry and livestock also rely heavily on trucks for shipment to market.

It also is worth noting that the interim report points out the importance of transportation in shaping rural development.

Mr. President, I am deeply concerned over the growing deterioration of the countryside transportation system. This situation affects all of our people, and it impairs our ability to make timely shipments abroad.

This bill would provide a congressional declaration of intent to establish a national transportation policy taking into account the interdependence of cities and the countryside. We cannot afford to treat our rural and urban transportation needs as separate and discrete.

The bill also provides a necessary stimulus by providing an additional $550 million in funding in fiscal year 1975 and a further increase of $950 million in fiscal year 1976 for ongoing rural road and bridge programs.

Of these amounts, funding for primary roads would be increased by $300 million in fiscal year 1975 and $700 million in fiscal year 1976. The above-mentioned total authorization increases also include an additional $100 million in fiscal year 1975 and $100 million in fiscal year 1976 for secondary roads. Finally, in each of fiscal 1975 and fiscal 1976, authorizations for the bridge replacement program would be increased by $75 million and authorizations for projects to remove hazardous locations would be raised by $75 million.

In addition, the bill provides a new emergency bridge replacement program. This one would be for use on non-Federal aid system public roads. It would be financed by funds produced by the taxes paid into the highway trust fund by consumers of petroleum products. This would not mean a new tax, but the same tax which these drivers have been paying since such taxes have been collected.

The program which I propose would be administered at the county level by the appropriate official, officials, or agency with responsibility for highway and road programs. Provisions of my proposal are designed to help insure that the local bridge replacement decisions are made in coordination with the existing regional and State transportation plans.

I urge that these proposals be given close and careful scrutiny.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 796

At the request of Mr. PELL, the senior Senator from Tennessee (Mr. BAKER) and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 796 to improve museum services.

S. 1811

At the request of Mr. CHURCH, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1811 to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income.

S. 1921

At the request of Mr. METCALF, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1921 to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes.

S. 2363

At the request of Mr. HARTKE, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 2363 to amend chapter 38 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

S. 2422

At the request of Mr. MATHIAS, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 2422 to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape.

S. 2868

At the request of Mr. CHURCH, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2868 to provide for tax counseling to the elderly in the preparation of their Federal income tax returns.

S. 3182

At the request of Mr. MCCLURE, the Senator from Wyoming (Mr. HANSEN), the Senator from Arizona (Mr. FANNIN), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3182 to prohibit the banning of lead shot for waterfowl hunting.

S. 3363

At the request of Mr. PELL, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 3363, the Open Windows Act of 1974.

S. 3451

At the request of Mr. MCCLURE, the Senator from Idaho (Mr. CHURCH) and the Senator from Colorado (Mr. DOMINICK) were added as cosponsors of S. 3451 to exempt range sheep industry mobile housing from regulations affecting permanent housing for agricultural workers.

S. 3541

At the request of Mr. MATHIAS, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor to S. 3541 to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land—rather than at its fair market value—and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes, at its value for its existing use, and to provide for the revocation of such lower valuation and recapture of unpaid tax with interest in appropriate circumstances.

S. 3648

At the request of Mr. TUNNEY, the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 3648 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.

S. 3657

At the request of Mr. RIBICOFF, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3657 to exempt State lotteries from certain Federal prohibitions, and for other purposes.

S. 3680

At the request of Mr. TUNNEY, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 3680 to prevent the unfair taxation of recent college graduates.

S. 3722

At the request of Mr. DOMENICI, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3722 to amend the Internal Revenue Code of 1954 to allow a deduction for certain expenses incurred for installation of solar heating and cooling systems.

S. 3738

Mr. SYMINGTON. Mr. President, as Secretary of the Air Force at the time a great American ace performed his epochal feat on October 14, 1947, I ask unanimous consent that I be added as a cosponsor of a bill introduced by the two Senators from West Virginia (S. 3738) to authorize the President of the United States to present in the name of Congress a Medal of Honor to Brig. Gen. Charles E. Yeager.

SENATE JOINT RESOLUTION 184

At the request of Mr. MAGNUSON, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S.J. Res. 184 to protect whales and certain other living marine resources.

SENATE CONCURRENT RESOLUTION 103—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. SPARKMAN (for himself, Mr. PROXMIRE, Mr. BROOKE, Mr. WILLIAMS, and Mr. CRANSTON) submitted the following concurrent resolution:

S. CON. RES. 103

Whereas the Congress under the Constitution has the power to coin money and regulate the value thereof;

Whereas the Congress has delegated that authority to the Board of Governors of the Federal Reserve System, as its agent;

Whereas the Ninety-first Congress authorized the Board of Governors of the Federal Reserve System to determine what types of obligations, whether issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, shall be deemed a deposit and thus subject to regulation under section 19 of the Federal Reserve Act;

Whereas a bank directly or indirectly receives the use of benefit of funds obtained by its non-banking affiliates through the issuance of obligations of a type that if issued by the bank directly would be a deposit; and

Whereas the issuance of such obligations thus provides funds to be used in the banking business: Now, therefore, be it *Resolved by the Senate (the House of Representatives concurring)*, That it is the intent of Congress that the Board of Governors of the Federal Reserve System exercise the authority conferred by section 19 of the Federal Reserve Act with respect to any obligation issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, regardless of the stated use of the proceeds of the issue.

SENATE RESOLUTION 358—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolution:

S. RES. 358

Resolved, That S. Res. 255, Ninety-third Congress, agreed to March 1, 1974, is amended as follows:

(1) In section 2, strike out "$4,073,000" and insert in lieu thereof "$4,085,500".

(2) In section 18, strike out "$150,000" and insert in lieu thereof "$162,500".

SENATE RESOLUTION 359—ORIGINAL RESOLUTION REPORTED INCREASING THE LIMITATION ON EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolution:

S. RES. 359

Resolved, That section 3 of Senate Resolution 56, 93d Congress, agreed to February 27, 1973, is amended by striking out "$3,000" and inserting in lieu thereof "$8,000".

PER DIEM AND MILEAGE EXPENSES OF EMPLOYERS AND OTHERS—AMENDMENT

AMENDMENT NO. 1545

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. ABOUREZK. Mr. President, the Senate Government Operations Committee will soon be considering S. 3341, the bill to revise certain provisions of the law to increase the per diem and mileage reimbursement rates of Government employees and other individuals traveling on official business. With unprecedented rises in the cost of fuel, transportation, and lodging, there seems to be little question that present reimbursement rates are inadequate.

Although I wholeheartedly support this legislation, there is a serious discrepancy in the present law which I feel needs to be corrected, and could be corrected by this bill. Present law provides for a per diem allowance of $25 in most cases and an 11 cents per mile allowance for most Government employees. Yet, the reimbursement rates for veterans traveling on official business to veterans facilities, for treatment or for other official veterans business is significantly less. Current reimbursement rates have been set at only $12 a day and 6 cents per mile.

I know of no discounts which veterans are entitled to for fuel, transportation or lodging to warrant this embarrassingly low rate. Yet, the more than 80,000 veterans who are required to travel to veterans facilities on a daily basis are expected to make ends meet with this meager amount of reimbursement. Letters which I have received from veterans in South Dakota indicate that the problem is so severe that many veterans simply fail to make hospital appointments and other veterans business meetings at veterans centers because of the high cost of travel. Figures from the Department of Transportation certainly underscore the graveness of the problem. According to their figures, DOT has estimated that it now costs over 14 cents a mile to operate an automobile and the American Automobile Association states that the figure is probably closer to 16 cents—a full 10 cents higher than the present veterans reimbursement rate and a good deal higher than the 11 cents now allotted Government employees.

There seems to be no justifiable reason why there must be two significantly different figures for two U.S. citizens traveling on official Government business. Veterans should have the same privileges under law that are granted to others traveling in a Government related capacity.

For this reason, I am introducing an amendment to S. 3341 which would provide that the amount paid under title 38 for expenses of travel or mileage allowance for veterans be equal to the amount paid under title 5 for Government employees traveling on official business. This simple provision would mean a great deal to the thousands of veterans who must rely on this reimbursement of their expenses to obtain the vital treatment required in the VA hospitals in their States.

It may be significant to note that in recent meetings, both the American Legion and the Veterans of Foreign Wars officially recognized the severe problem that presently exists in this regard. Each organization drafted and approved a resolution calling on the Congress for action in solving this problem during the current legislative session. I wholeheartedly concur with these resolutions and urge my colleagues to heed the advice of these knowledgeable organizations by supporting S. 3341 and the amendment to include the veteran.

Mr. President, I ask unanimous consent that the two veterans' organizations resolutions be printed in the RECORD.

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

NATIONAL EXECUTIVE COMMITTEE MEETING OF THE AMERICAN LEGION, MAY 1–2, 1974

Resolution No. 3.

Commission: National Veterans Affairs and Rehabilitation.

Subject: Sponsor and support legislation to increase travel allowances paid to veterans performing VA authorized travel to and from VA facilities.

Whereas, the current mileage allowance of 6 cents per mile paid to VA beneficiaries who perform VA authorized travel to and from VA facilities was established by Executive Order 11429, dated September 9, 1968, to cover the expenses of operating an automobile; and

Whereas, VA Regulations MP–1, Part II, Chapter 2, Section 5707 of Title 5, United States Code, authorize a VA employee performing travel in service for the Government to be paid not in excess of 12 cents a mile for the use of a privately owned automobile; and

Whereas, an accurate cost analysis made by the Washington, D.C. Division of the American Automobile Association indicates that the current average variable cost of operating a standard size automobile has risen to 16.6 cents per mile from a cost of 3.3 cents per mile in 1968; and

Whereas, the current maximum daily rates authorized to be paid to VA beneficiaries performing VA authorized travel for meals and lodging when required based on VA medical and administrative determination is $12.00; and

Whereas, VA regulations and Section 5707 of Title 5, United States Code, authorize a VA employee performing service for the Government to be paid not in excess of $25.00 per day in travel status inside the continental United States; and

Whereas, there is a gross disparity in the maximum mileage allowance and per diem rates payable to VA beneficiaries and VA employees, despite the authorization and direction of the performance of the travel pursuant to Federal regulations; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 1–2, 1974, that The American Legion sponsor and support legislation to amend title 38, United States Code, to provide that travel allowances paid to veterans on authorized travel to and from Veterans Administration facilities shall not be less than those paid to employees of the Federal Government traveling on official business.

RESOLUTION NO. 630: INCREASE TRAVEL ALLOWANCE FOR VA CARE

Whereas, veterans who have entitlement to hospitalization, outpatient treatment, disability benefits, educational assistance, rehabilitation, etc., from the Veterans Administration are in many cases citizens who are in the lower income bracket in our society; and

Whereas, when a veteran must report for hospitalization, outpatient treatment, follow-up care, examinations or counseling, the expense of traveling to the place where he has been authorized to report is a hardship that many cannot afford; and

Whereas, the monetary amount which is authorized to be paid for mileage by the Veterans Administration is not adequate to defray the expenses of travel, meals and lodgings; now, therefore

Be it resolved, by the 74th National Convention of the Veterans of Foreign Wars of the United States, that the travel allowance paid to a veteran by the Veterans Administration shall be increased to twelve cents per mile.

At the end of the bill add a new section as follows:

SEC. . Section 111(a) of title 38, United States Code, is amended by adding at the

end thereof a new sentence as follows: "In no event shall the amount paid under this section for expenses of travel or mileage allowance be less than the amount paid therefor under section 5702 or 5704, as appropriate, of title 5 in the case of employees of the United States traveling on official business."

COMMUNITY SERVICES ACT OF 1974—AMENDMENT

AMENDMENT NO. 1546

(Referred to the Committee on Labor and Public Welfare)

Mr. JACKSON. Mr. President, today I am introducing legislation to establish a National Veterans Outreach Program. This legislation is closely modeled after the highly successful Veterans Education and Training Service Program—VETS—currently operated by the National League of Cities-Conference of Mayors in 19 cities through a grant of OEO discretionary funds. The purpose of this program is to better provide essential services in the areas of educational counseling, job training and placement, and a variety of other health-welfare services needed by Vietnam era veterans. I offer this legislation as a proposed amendment to H.R. 14449, the Economic Opportunity Act Amendments of 1974, now under consideration by the Senate Subcommittee on Employment, Poverty, and Migratory Labor. Accordingly, I have written a letter to the subcommittee chairman, Senator NELSON, urging that this legislation be included in the bill that will soon be reported by the subcommittee.

The need for a positive program to aid Vietnam era veterans is generally recognized and agreed upon. Thousands of young men who served their country in the longest and most difficult war in our history face serious problems of unemployment, lack of education and training, and variety of health-welfare problems including drugs, legal difficulties, housing problems, and so on.

The GI bill and other programs that provide assistance for veterans are in many cases inadequate in light of inflation and in any case they are underutilized by large and important segments of the veteran population. The Congress is moving to increase benefits under the GI bill and to improve other veterans benefit programs and I strongly support these actions. However, I believe that we also need to act to assure better utilization of the intended benefits of the GI bill and the many other Federal, State, local and private programs under which veterans are eligible for benefits.

The legislation I am introducing would provide for a national veterans outreach program to provide comprehensive services for veterans. The success of this type of program has been fully demonstrated by the tremendous success of the league-conference vets program I mentioned earlier. Using the peer outreach concept, VETS has been extremely effective in providing total services for veterans in the areas of employment, housing, medical and legal problems, and the many other problems confronting today's veteran.

VETS was originally funded through OEO discretionary funds in 1971 to establish peer outreach and counseling projects in 10 cities.

Through the OEO grant, the league and conference subcontracted with a variety of local sponsors to establish model outreach counseling and referral operations encompassing Federal, State and local governmental agencies, as well as private institutions, colleges, veterans organizations, churches, and community groups. These sponsors include city governments, community action agencies, human resources departments, manpower Commissions, CAMPS, a State employment commission, and colleges. In all cases, the local sponsors have been designated by the mayors of those communities. Significantly too, several of the local VETS projects serve wide areas encompassing several cities.

The program was so successful that discretionary funds were also made available in 1972 and 1973 and the program has expanded to include 19 cities at present. The goals and objectives of my legislation closely parallel the purpose of VETS. My bill would provide continued support for a program to establish veterans service centers to:

First, assist veterans in enrolling in educational and training opportunities under the GI bill,

Second, assist veterans in obtaining full-time and part-time employment for themselves and their dependents,

Third, assist veterans with health and welfare problems, that is medical, drugs, housing, et cetera,

Fourth, assist veterans with legal problems, especially problems related to or resulting from their service in the Armed Forces of the United States or the terms of their discharge.

Fifth, to meet whatever other needs veterans may have—directly or through referral—to insure that veterans are fully apprised of the options and benefits available to facilitate their reassimilation into civilian life.

The principal target group for this program will be veterans from lower income families and minorities who have a high school education or less. Other veterans who have a high school education are a secondary, but an important target group.

These groups have had the greatest difficulty in readjusting to civilian life and finding rewarding and productive jobs. In addition, these groups have been the hardest to reach in order to assure that they fully understand the opportunities and services which are available to them as veterans. This is why it is so important that an aggressive veterans outreach program like Vets be continued under the new OEO program.

The Vets program has been uniquely effective in reaching these target groups in its three years of operation. About 55 percent of the over 40,000 veterans that have been served by Vets are minorities. Better than 70 percent of those served have been educationally and economically disadvantaged.

The key to the success of this program has been and will continue to be the active involvement of veterans in the operation of the service centers. Recent veterans, especially those now enrolled as students have been utilized to the maximum extent possible both as volunteers and as paid staff. Assistance from student veterans organizations has been obtained and where no organization exists, recent veterans have provided organizational help so they may become better able to provide assistance to the program.

Vets has been cost effective with per capita costs running at about $75. In addition, the program has been extremely effective in generating other Federal, State, and local government participation as well as strong support from the private community. Existing service agencies, the mass media, and other organizations have been strongly utilized and OEO's investment of approximately $3 million over 3 years has generated other financial and in-kind support of a value exceeding $10 million. These contributions have come from public employment moneys and model cities moneys at the Federal level. At the local government level contributions approach $3 million, a fact that is especially significant in light of the fact that the league and conference have not required a local match in order to establish an outreach program. In addition, church groups, colleges and universities, and private service agencies have participated in and supported the Vets program. This strong and broad based support for the Vets program is very desirable and should be encouraged to continue.

The need for cities to have local mechanisms to reach out and assist veterans is as evident now as it was 3 years ago when the Vets program began. Veterans returning with little or no skills, poorly educated and "turned off" by traditional institutions need this type of program.

"Bad" discharges, drugs, poor housing, and other deprivations team up to exacerbate the already acute problems of disadvantaged veterans returning to our central cities. During the first quarter of this year, unemployment among young veterans in the overall 20–34 age group leaped a staggering 125 percent for nonwhites, and 52 percent for whites over the last quarter of 1973. Experience with veterans over the past 2½ years has proven the value and reception of the "peer outreach" concept. The veterans-helping-veterans approach has penetrated the barriers of distrust and allowed for meaningful assistance.

I hope that the good work that has been done for Vietnam era veterans through this program will not die in the process of legislation transferring the functions of the Office of Economic Opportunity to a new agency. We must act to assure that these veterans do not become "forgotten men," "prisoners of peace," or the "invisible army" as they are characterized in popular slogans. We must seize this opportunity to preserve a program of proven effectiveness and value by requiring that it be continued under the new OEO program.

The problem of reassimilating Vietnam era veterans into meaningful roles in society is soluable if we will only devote some time, effort and resources to the problem. This is a problem that can be solved in a relatively short period if we act now. But if we fail to act; if we fail to meet our responsibilities to these men, the Nation will live with the conse-

quences of this failure for a full generation.

I am confident that the Senate will recognize the value of this program and establish the veterans outreach program that I have suggested as a special program under the new economic opportunity authorization.

AMENDMENT OF THE STANDBY ENERGY EMERGENCY AUTHORITIES ACT—AMENDMENT

AMENDMENT NO. 1547

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself, Mr. BARTLETT and Mr. CURTIS), submitted an amendment intended to be proposed by him to the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

THE DESIGN PROTECTION ACT OF 1973—AMENDMENT

AMENDMENT NO. 1548

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

Mr. GURNEY (for himself, Mr. THURMOND, and Mr. ERVIN), submitted an amendment intended to be proposed by him to the bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

THE INDIAN HEALTH CARE IMPROVEMENT ACT—AMENDMENT

AMENDMENT NO. 1549

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, today I am submitting an amendment which would affect titles II and III of S. 2938, the Indian Health Care Improvement Act, and I would like to state for the RECORD how this measure would serve to meet some of the very critical health needs of our Nation's Indian children.

Last year during informal hearings I conducted on the health needs of Indians in my State of New Mexico, major shortcomings in the school health programs for Indian children were revealed. To my amazement, I was made aware of the fact that many BIA elementary and high schools in New Mexico do not have on-site organized health facilities and programs for their pupils—facilities taken for granted by other public school children in this country.

Subsequently, as a result of the testimony I received from concerned Indian leaders, I requested a thorough investigation by the Bureau of Indian Affairs into all BIA schools located on reservations throughout the country. I ask that the results of the study be made part of the RECORD at the conclusion of my remarks as exhibit 1.

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

(See exhibit 1.)

Mr. DOMENICI. Mr. President, an analysis of this BIA report indicates there are at least 50 schools in the country without adequate health facilities. These 50 Indian schools represent student bodies of as few as 15 children up to as many as 494 students. Furthermore, the nearest health facility could be as far away as 75 miles. In one instance, 108 students in the Muskogee area are required to travel 75 miles for the most elementary first-aid care.

It was concluded by the BIA representatives working on the study that a visiting health official, a person who visited only on a rotation basis, represented inadequate health care. It is highly unlikely that accidents and illnesses occur on only a one day, once a week basis—or only from 9 to 10 in the morning.

Furthermore, at my request and based on the BIA findings, the Indian Public Health Service prepared a cost evaluation for the renovation of existing classrooms into a school health center and the needed staffing requirements. I ask unanimous consent to have this report be printed at the end of my remarks as exhibit 2.

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

(See exhibit 2.)

Mr. DOMENICI. Mr. President, the estimated construction costs during the next 5 years would total $7,500,000 under title III. This estimate includes the addition of mobile trailers in the case of those schools where existing space is not available. These costs are nonrecurring once the basic space and equipment is made available.

The IHS estimated a total cost for staff to be $17 million under Title II over the same 5-year period. The report indicated the number of positions needed for each reservation area. Title II proposes to eliminate "backlogs in Indian health care services and to supply known, unmet medical, surgical, dental, and other Indian health needs." I believe this proposal would redress one such significant known and unmet health need.

Staffing would include registered nurses where schools and needs are large enough, and first-aid paramedics for smaller student bodies. These health professionals would also be integrated into the educational system at each school, instructing youngsters on proper health care and hygiene.

Mr. President, in earlier remarks I made before this body, I indicated my support for S. 2938 as I felt the special, acute health needs of all Indian people demand a national commitment. I will not reiterate now those unique health needs except to emphasize a statement made by an Indian Health Service representative before the 1974 appropriations hearings:

In spite of very substantial program achievements, morbidity and mortality among Indians remains considerably higher than in the general population. Significant strides have been made in recent years, particularly in the prevention of the infant deaths and deaths from tuberculosis. However, the environment, both physical and economic, in which the Indians find themselves, predisposes them to the ravages of disease to a far greater degree than found in the general population.

The children attending BIA schools are carrying the load of inadequate health care. These children need proper attention, health instruction, and dependable health services as offered in all other public schools. The Federal Government has a special commitment to the Indian people, and I believe this commitment extends to the best health care possible. Through the utilization of funds made available with the passage of this bill with this amendment, health care and education to schoolchildren can also be extended.

The total financial commitment for the implementation of this proposed amendment for the next 5 years is estimated to be $24,500,000—a relatively low figure when considering the goals involved.

It is hoped that such a modest proposal would go a long way toward meeting those medical emergencies which are unpredictable and which occur with understandably regular frequency in the school setting. What is more, it is intended that such an amendment would have a larger and greater impact on the general level of health among American Indians. Health care is more than episodic treatment of illness or accident. Quality health care entails early detection, screening, and referral also involving prevention and health education. Above all, quality health requires an ongoing, organized, and highly visible program and setting.

I need not point out how critical these aspects of quality health care are for the child—and the community. The Indian Health Service agrees that these very simple, yet most basic and fundamental functions could be quite adequately performed at school health facilities staffed with trained health personnel. A lifetime of good or poor health for the individual Indian may be at stake, and I urge my colleagues' support of this proposal.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at the conclusion of my remarks.

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

AMENDMENT NO. 1549

On page 13, insert between lines 6 and 7 the following:

(d) For the purpose of providing staffing of health care personnel in primary and secondary schools which serve the Indian people covered by this section there are authorized to be appropriated $1,000,000 for the fiscal year ending 1975; $2,100,000 for the fiscal year ending 1976; $3,300,000 for the fiscal year ending 1977; $4,600,000 for the fiscal year ending 1978; and $6,000,000 for the fiscal year ending 1979.

On page 14, insert between lines 3 and 4 the following:

(d) Primary and secondary school health facilities: There are authorized to be appropriated $1,500,000 for the fiscal year ending 1975; $1,500,000 for the fiscal year ending 1976; $1,500,000 for the fiscal year ending 1977; $1,500,000 for the fiscal year ending 1978; and $1,500,000 for the fiscal year ending 1979.

EXHIBIT 1

School	Enrollment	Health facility on campus	Distance to health facility (miles)	Staff
Albuquerque area:				
Acomita	238	No	5	
A.I.S.	284	Yes		Part time.
I.A.I.A.	189	Yes		Full time.
Isleta	277	Yes		Part time.
Jemez	154	No	¼	
Laguna	411	No	4	
San Ildefonso	28		20	
San Felipe	220	Yes		Do.
San Juan	117	Yes		Do.
Santa Clara	114	Yes		Do.
S.I.P.I.	476	Yes		Do.
Taos	186	Yes		Do.
Tesque	17		10	
Zia	70	No	½	
Anadarko area:				
Chilocco	236	Yes		Full time.
Concho	216	Yes		Part time.
Fort Sill	185	Yes		Full time.
Haskell	907	Yes		Do.
Riverside	266		40	
Billings area: Busby	326	Yes		Do.
SOUTHEASTERN AGENCIES				
Choctaw Agency:				
Bogue Chitto	174	Clinic		Do.
Chitimacha	66	No	12	
Choctaw Central	623	Clinic		Do.
Conehatta	179	do		Part time.
Red Water	108	do		Do.
Standing Pine	74	No	18	
Tucker	54	No	7	
Muskogee area:				
Carter	96	No	35	
Eufaula	108	No	75	
Jones Academy	171	Yes		Do.
Seneca	176	Yes		Do.
Sequoyah	290	Yes		Do.
Phoenix area:				
Phoenix Indian High School	565	Yes		Full time.
Sherman Indian High School	587	Yes		Do.
Stewart Indian School	393	Yes		Do.
Fort Apache Agency:				
Theodore Roosevelt Building	196	Yes	5	Part time.
Cibecue Day School	267	Yes		Full time.
J. F. Kennedy Day School	105	Yes	20	Part time.
Salt River Agency: Salt River Day School	246	Yes		Full time.
Papago Agency:				
Santa Rosa Bdg. School	404	No	35	
Santa Rosa Day School	17	No	38	
Kerwo Day School	46	No	70	Do.
Vaya Chin Day School	70	No	55	
Pima Agency:				
Blackwater Community School	39	No	14	
Casa Blanca Day School	137	Yes		Part time.
Gila Crossing Day School	156	Yes	11	Full time.
Hopi Agency:				
Keams Canyon Boarding School	252	Yes		Do.
Polacca Day School	147	Yes	14	Part time.
Second Mesa Day School	240	Yes		Do.
Hopi Day School	139	Yes	35	Do.
Hoteville Day School	87	Yes		Do.
Moencopi Day School	60	No	1	
Truxton Canyon Agency: Supai Day School	32	Yes		Full time.
Portland area: Chemawa Indian School	433	Yes		Do.
SOUTHEASTERN AGENCIES				
Cherokee Agency:				
Cherokee Elementary School	723	Yes		Do.
Cherokee Central High School	441	Yes		Do.
Aberdeen Area:				
Cheyenne River Agency:				
Bridger Day School	24	No	70	
Cherry Creek Day School	129	No	45	
Promise Day School	21	No	60	
Swift Bird Day School	39	No	48	
White Horse Day School	46	No	40	
Cheyenne-Eagle Butte	755	Yes		Do.
Do	198			
Fort Berthold Agency:				
Mandaree Day School	230	Yes		Do.
Twin Buttes Day School	74	Yes		Do.
White Schield Day School	169	Yes		Do.
Lower Brule Agency: Lower Brule Day School.	236	Yes		Do.
Crow Creek Agency: Fort Thompson Community Day.	249	Yes		Part time.
Sisseton Agency:				
Big Coulee Day School	29	No	12	
Enemy Swim Day School	15	No	15	
Standing Rock Agency:				
Bullhead Day School	85	Yes	14	
Little Eagle Day School	99	No	11	
Standing Rock Community Day	520	Yes		Do.
Turtle Mountain Agency:				
Dunseith Day School	104	No	14	
Turtle Mountain Community School	1497	Yes		Full time.
Fort Totten Agency: Fort Totten Community School.	199	Yes		Do.

School	Enrollment	Health facility on campus	Distance to health facility (miles)	Staff
Aberdeen Area—Continued				
Pine Ridge Agency:				
Allen Day School	151	Yes		Full time.
Little Wound Day School	413	Yes		Do.
Manderson Day School	234	Yes		Do.
Loneman Day School	329	Yes		Do.
Porcupine Day School	188	Yes		Part time.
Wanblee Day School	264	Yes		Full time.
Oglala Community School	960	Yes		Do.
Boarding schools and dormitory:				
Pierre Indian School	93	Yes		Do.
Flandreau School	480	Yes		Do.
Wahpeton Indian School	244	Yes		Do.
Rosebud Dormitory	220	Yes		Part time.
Juneau area: [1]				
Bethel Agency:				
Alakanuk Day School	144	Yes		Full time.
Hooper Bay Day School	194	Yes		Do.
Nome Agency:				
Gambell Day School	103	Yes		Do.
Kotzebue Day School	655	Yes		Do.
Unalakleet Day School	141	Yes		Do.
Fairbanks Agency: Barrow Day School	589	Yes		Do.
Southeast Agency: Klukwan Day School	18	No	[2] 9	
Boarding schools:				
Mt. Edgecumbe School	407	Yes		Do.
Wrangell Institute	109	Yes		Do.
Navajo area:				
Off-Reservation Bdg. School: Intermountain School.	656	Yes		Do.
Eastern Navajo Agency:				
Baca Boarding School	36	No	44	Do.
Chi Chil Tah Boarding School	76	No	25	
Crownpoint Boarding School	600	Yes		Do.
Dlo'ay Azhi Boarding School	98	No	30	
Dzilth-Na-O-Dith-Hle School	254	No	70	
Lake Valley Boarding School	74	No	35	
Mariano Lake Boarding School	64	No	19	
Pueblo Pintado Boarding	139	Yes		Part time.
Standing Rock Boarding	34	No	16	
Torreon Boarding School	49	No	75	
Whitehorse Lake Bdg.	20	No	23	
Wingate Elementary Boarding	686	Yes		Full time.
Wingate High School (boarding)	641	Yes		Do.
Alamo Day School	48	Yes		Part time.
Bread Springs School	73	No	25	
Jones Ranch School	48	No	25	
Ojo Encino Day School	74	Yes		Do.
Magdalena Dormitory	221	No	25	
Huerfano Dormitory	115	No	50	
Canoncito Boarding School	53	No	35	
Chinle Agency:				
Chinle Boarding school	645	Yes		Full time.
Low Mountain Boarding School	52	Yes	28	Part time.
Lukachukai Boarding School	195	Yes	40	Do.
Nazlini Boarding School	106	Yes	18	Do.
Pinon Boarding School	198	Yes	48	Do.
Many Farms Junion High	559	Yes	20	Do.
Cottonwood Day School	365	Yes		Full time.
Fort Defiance Agency:				
Chuska Boarding School	494	No	1	
Crystal Boarding School	107	No	25	
Dilcon Boarding School	415	Yes		Do.
Greasewood Boarding School	426	Yes		Do.
Hunters Point School	149	No	10	
Kinlichee Boarding School:	216	No	8	
Pine Springs Boarding School	44	No	50	
Seba Dalkai Boarding School	97	No	7	
Tohatchi Boarding School	316	Yes		Do.
Toyei Boarding School	602	Yes		Do.
Wide Ruins Boarding School	163	Yes		Do.
Holbrook Dormitory	517	Yes		Do.
Snowflak Dormitory	103	No	66	
Winslow Dormitory	231	Yes		Do.
Shiprock Agency:				
Aneth Community Boarding School	245	Yes	30	Part time.
Nenahnezad Boarding School	311	No	22	
Sanostee Day School and Boarding School.	466	Yes	37	Do.
Shiprock Boarding Jr. High	341	Yes		Full time.
Teecnospos Boarding School	470	Yes		Do.
Toadlena Boarding School	197	Yes	50	Part time.
Beclabito Day School	59	No	10	
Cove Day School	128	No	45	Do.
Red Rock Day School	80	No	30	
Aztec Dormitory	118	Yes		Full time.
Tuba City Agency:				
Dennehotso Boarding School	223	Yes		Part time.
Kaibeto Primary Bdg., Day, Elementary Bdg., and Day School.	643	Yes		Full time.
Kayenta Boarding School	578	Yes		Part time.
Leupp Boarding School	449	Yes		Full time.
Navajo Mountain Bdg.	32	Yes		Do.
Rocky Ridge Boarding School	60	Yes		Part time.
Shonto Boarding and Day School	983	Yes		Do.
Tuba City Boarding School	1002	Yes		Full time.
Chilchinbeto Day School	130	No	24	
Red Lake Day School	207	Yes		Part time.
Flagstaff Dormitory	223	Yes		Full time.
Richfield Dormitory	113	Yes		Do.

Note: Health facilities may mean health rooms, examination rooms, a clinic, or in some instances a hospital. On campus facilities may be within a Bureau school or a separate Public Health Service unit.

[1] All of the other 46 Alaska BIA schools have a health room in the school or village doctors and nurses from public health service make regular visits to these schools. Emergencies are taken care of by the use of shortwave radios for diagnosis and treatment. Patients can be flown out of these villages if necessary, in less than a day and treated at agency public health service hospitals—weather permitting.

[2] By highway.

EXHIBIT 2

INDIAN HEALTH SERVICE—SCHOOL HEALTH CENTER DATA—SUMMARY

	Schools		Nonrecurring amount [1]	Recurring [2]	
	Estimated total	Inadequate		Positions	Amount
Aberdeen	36	30	$75,000	78	$754,000
Alaska	55	6		6	72,000
Albuquerque	14	11	360,000	11	166,000
Billings	2	2		2	34,000
Navajo	70	47	504,000	40	480,000
Oklahoma	10	5	1,383,000	87	2,170,000
Phoenix	16	15	1,149,000	33	539,000
Portland	1	1	1,842,000	28	683,000
Tucson	4	4	400,000	5	90,000
United Southeastern Tribes	11	11	182,000	30	333,000
Dental needs (all areas)			810,000	36	540,000
Nurse practitioners training			600,000		
Total	219	132	7,305,000	328	5,861,000

	1975	1976	1977	1978	1979	Total
Nonrecurring (title III)	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	7,500,000
Recurring (title II)	[3] 1,000,000	[4] 2,100,000	[5] 3,300,000	[6] 4,600,000	[7] 6,000,000	17,000,000

[1] Includes facilities construction and renovation, equipment.
[2] Includes staffing and operating cost.
[3] 55 positions.
[4] 115 positions.
[5] 180 positions.
[6] 250 positions.
[7] 328 positions.

INDIAN HEALTH SERVICE, SCHOOL HEALTH NEEDS

	Nonrecurring cost [1]	Recurring cost		Adequacy of school health needs
		Positions	Amount	
Aberdeen area	$75,000	78	$754,000	
Bridger Day School				Inadequate service.
Cherry Creek Day School				Do.
Promise Day School				Inadequate service and space.
Swift Bird Day School				Inadequate service.
White Horse Day School				Do.
Cheyenne-Eagle Butte (1)				Do.
Mandaree Day School				Do.
Twin Buttes Day School				Do.
White Shield Day School				Do.
Lower Brule Day School				Do.
Fort Thompson Community Day School				Do.
Big Coulee Day School				Inadequate service and space.
Enemy Swim Day School				Do.
Bullhead Day School				Inadequate service.
Little Eagle Day School				Inadequate service and space.
Standing Rock Community Day School				Inadequate service.
Dunseith Day School				Inadequate service and space.
Turtle Mountain Community School				Do.
Fort Totten Community School				Inadequate service.
Allen Day School				Do.
Little Wound Day School				Do.
Manderson Day School				Do.
Loneman Day School				Inadequate service and space.
Porcupine Day School				Inadequate service.
Wanblee Day School				Do.
Oglala Community School				Do.
Pierre Indian School				Inadequate service and space.
Flandreau School				Inadequate service.
Wahpeton Indian School				Do.
Rosebud Dormitory				Do.
St. Michaels				Adequate service.
St. Francis				Do.
Red Scaffold				Do.
Fort Berthold				Do.
Crow Creek Tribal, Cheyenne-Eagle Butt (2)				Do.
Albuquerque area	360,000	11	166,000	
Acomita				Inadequate service and space.
AIS				Adequate.
IAIA				Do.
Isleta				Inadequate service and space.
Jemez				Do.
Laguna				Do.
San Ildefonso				Do.
San Felipe				Do.
Santa Clara				Do.
SIBI				Adequate.
Taos				Inadequate service and space.
Tesque				Do.
Zia				Do.
San Juan				Do.
Alaska area		6	72,000	
Kasigluk				Inadequate service.
Otlik				Do.
Pilot Station				Do.
Toksook Bay				Do.
Tununak				Do.
Mekoryak				Do.
Billings area		2	34,000	
Busby				Do.
Intermountain School				Do.
Navajo area	504,000	40	480,000	
Baca Boarding School				Inadequate service and space.
Borrego Pass				Do.
Chi Chil Tah Boarding School				Do.
Crownpoint Boarding School				Adequate.

	Non-recurring cost [1]	Recurring cost [2] Positions	Recurring cost [2] Amount	Adequacy of school health needs
Navajo area—Continude				
Dlo-ay Azhi Boarding School				Inadequate service and space.
Dzilth-Nah-O-Dith-Hle School				Do.
Lake Valley Boarding School				Do.
Mariano Lake Boarding School				Do.
Pueblo Pintado Boarding School				Do.
Standing Rock Boarding School				Do.
Thoreau Boarding School				Do.
Torreon Boarding School				Do.
Whitehorse Lake Boarding School				Do.
Wingate Elementary Boarding School				Inadequate service.
Wingate High School (Boarding)				Do.
Alamo Day School				Do.
Bread Springs School				Inadequate service and space.
Jones Ranch School				Do.
Ojo Encino Day School				Do.
Magdalena Dormitory				Do.
Huerfano Dormitory				Do.
Canoncito Boarding School				Do.
Chinle Boarding School				Adequate.
Low Mountain Boarding School				Inadequate service (Hopi SU).
Lukachukai Boarding School				Inadequate service and space.
Nazlini Boarding School				Inadequate service.
Pinon Boarding School				Do.
Many Farms Junior High School				Do.
Cottonwood Day School				Do.
Rough Rock School				Do.
Rock Point School				Inadequate service and space.
Chuska Boarding School				Do.
Crystal Boarding School				Do.
Dilcon Boarding School				Adequate.
Greasewood Boarding School				Do.
Hunters Point School				Inadequate service and space.
Kinlichee Boarding School				Do.
Pine Springs Boarding School				Do.
Seba Dalkai Boarding School				Do.
Tohatchi Boarding School				Inadequate service.
Toyei Boarding School				Do.
Wide Ruins Boarding School				Adequate.
Holbrook Dormitory				Do.
Snowflake Dormitory				Inadequate service and space.
Winslow Dormitory				Adequate.
Twin Wells School				Inadequate service.
Seventh Day Adventist				Do.
Aneth Community Boarding School				Inadequate service and space.
Nenahnezad Boarding School				Inadequate service.
Sanostee Day School and Boarding School				Adequate.
Shiprock Boarding Junior High				Do.
Teecnospos Boarding School				Do.
Toadlena Boarding School				Do.
Beclabito Day School				Inadequate service and space.
Cove Day School				Do.
Red Rock Day School				Do.
Aztec Dormitory				Adequate.
Dennehotso Boarding School				Inadequate service and space.
Kaibeto Primary Boarding, Day, Elementary Boarding and Day School				Adequate.
Kayenta Boarding School				Do.
Leupp Boarding School				Do.
Navajo Mountain Boarding				Do.
Rocky Ridge Boarding School				Do.
Shonto Boarding and Day School				Do.
Tuba City Boarding School				Do.
Chilchinbeto Day School				Inadequate service and space.
Red Lake Day School				Adequate.
Flagstaff Dormitory				Do.
Richfield Dormitory				Do.
Oklahoma area	$1,383,000	87	$2,170,000	
Chilocco				Do.
Concho				Inadequate service and space.
Fort Sill				Adequate.
Haskell				Inadequate service and space.
Riverside				Do.
Carter				Inadequate service.
Eufaula				Adequate.
Jones Academy				Do.
Seneca				Inadequate service and space.
Sequoyah				Adequate.
Phoenix area	1,149,000	33	539,000	
Theodore Roosevelt Boarding School				Inadequate service and space.
Cibecue Day School				Do.
J. F. Kennedy Day School				Do.
Blackwater Com. School				Do.
Casa Blanca Day School				Adequate.
Keams Canyon Boarding School				Inadequate service and space.
Polacca Day School				Do.
Second Mesa Day School				Do.
Hopi Day School				Do.
Hoteville Day School				Do.
Low Mtn. Day School				Do.
Phoenix Indian High School				Do.
Sherman Indian High School				Do.
Stewart Indian School				Do.
Salt River Day School				Do.
Gila Crossing Day School				Do.
Portland area	1,842,000	28	683,000	
Chemawa				Do.
Tucson subarea	450,000	5	90,000	
Santa Rosa Boarding School				Inadequate service.
Santa Rosa Day School				Do.
Kerwo Day School [3]				Inadequate service and space.
Vaya Chinn Day School [3]				Do.

Footnotes at end of table.

INDIAN HEALTH SERVICE SCHOOL HEALTH NEEDS—Continued

	Non-recurring cost[1]	Recurring cost[2] Positions	Recurring cost[2] Amount	Adequacy of school health needs
United Southeastern Tribes	$182,000	30	$333,000	
Bogue Chitto				Inadequate service.
Chitimacha				Do.
Pearl River				Do.
Conehatta				Do.
Red Water				Do.
Standing Pine				Do.
Tucker				Do.
Cherokee High and Elementary				Do.
Snowbird				Do.
Ahfachkee				Do.
Miccosukee				Do.
Dental, all areas	810,000		540,000	
Training, nurse	600,000			

[1] Includes facilities construction and renovation, equipment and training.
[2] Includes staffing and operating costs.
[3] New boarding school at San Simon to replace Kerwo and Vaya Chinn Day Schools.

AMENDMENT OF FOREIGN ASSISTANCE AUTHORIZATION ACT—AMENDMENT

AMENDMENT NO. 1550

(Ordered to be printed and referred to the Committee on Foreign Relations.)

AMENDMENT ON INDOCHINA AID

Mr. KENNEDY. Mr. President, I am submitting today an amendment to S. 3394, the administration's pending foreign assistance authorization bill for fiscal year 1975. The amendment involves the bill's provision on "Indochina postwar reconstruction."

I am offering this amendment because reports from the field, and the administration's foreign aid presentation to Congress, tell us once again that the President has failed to redirect or change, in any meaningful way, the basic character and purpose of our aid policies toward the countries of Indochina.

The amendment is an effort to help remedy some serious shortcomings in the adminstration's proposal for Indochina. It is the result of extensive inquiry by the Subcommittee on Refugees, which I serve as chairman, and of discussions we have had in many quarters and with many experts in this country and overseas. The amendment continues and strengthens some initiatives taken by Congress last year, and reflects what I firmly believe broadly represents the will of the American people on the issue of future assistance to the countries of Indochina.

PURPOSES OF THE AMENDMENT

The amendment seeks these basic objectives.

First, it affirms the President's authority to furnish assistance for the relief, rehabilitation, and reconstruction of the peoples and countries of Indochina.

Second, it provides that people problems—especially the needs of refugees, civilian casualties, orphans, and others disadvantaged by the war—and the reconstruction of civilian facilities—such as housing, hospitals, clinics, and schools—shall be the overriding concern and objective of American assistance to the area.

Third, it provides that, "wherever practicable," American assistance to Indochina shall be distributed "under the auspices of and by the United Nations, other international organizations or arrangements, multilateral institutions, and private voluntary agencies with a minimum presence and activity of U.S. Government personnel." In this connection, the amendment also "urges the President to solicit the cooperation of other governments" to support and participate in such international efforts.

Fourth, the amendment reaffirms and strengthens last year's congressional ban on American support "of police, or prison construction and administration, within South Vietnam." The amendment states that—

> No assistance shall be furnished under this section or any other provision of law, and none of the local currencies accruing under this section or any other provision of law, shall be used to furnish funds, commodities, equipment, advice, training, or personnel for the support of detention facilities, prisons, police, other internal security forces, or any program of internal intelligence or surveillance in South Vietnam, Cambodia, and Laos.

Fifth, the amendment seeks to establish a firm ceiling, within the Foreign Assistance Act, on funding for Indochina postwar reconstruction. It provides that no funds may be transferred by the President from other parts of the act, including part I for development assistance, for use in Indochina during fiscal year 1975. This is necessary, Mr. President, in light of the administration's record last year of transfering some $55,524,000 in development and other funds, for use in Indochina, rather than for the purposes these funds were intended.

Thus, while Congress acted in 1974 to reduce the administration's request from some $630 to $504 million, we find at the end of the fiscal year that the administration, by robbing other foreign aid accounts, violated the intent of Congress. Moreover, if there had been no supplemental of $49 million, the administration was even prepared to transfer an additional $60 million to Indochina from AID's worldwide program loan fund. This is a distressing commentary on the administration's attitude toward the will of Congress and the American people, and underscores the need again for Congress to establish guidelines for the allocation of tax dollars.

Clearly, a ceiling is required on our authorization for funding in Indochina. And what my amendment recommends on this issue is at least a start. Hopefully, the Foreign Relations Committee will pursue the concept further. Perhaps the committee will consider funding restrictions along the lines of section 655 of the Foreign Assistance Act, which was sponsored in 1971 by the distinguished senior Senator from Missouri (Mr. SYMINGTON).

Section 655 sets an absolute ceiling on assistance to Cambodia. Perhaps this section should be extended to all of Indochina, and for all funding sources. The importance of section 655 can be measured by the administration's attempt, in this year's bill, to nullify section 655 as it applies to the granting of excess defense articles to Cambodia. I urge the committee to reject this effort by the administration and instead move to apply the restrictions of section 655 to all of Indochina, so as to control this administration's ability to do and spend as it pleases.

And finally, the amendment reduces by one-half the administration's budget request for assistance to South Vietnam, Laos, and Cambodia. Instead of the $943,300,000 requested by the President, the amendment authorizes some $475 million.

This is an ample American contribution for humanitarian purposes—as well as for the general support of Saigon, Vientiane, and Phnom Penh—in their transition from nearly total dependence on American aid, to belt tightening on their part and growing assistance from others in the international community.

Mr. President, we must finally end the master-client relationships between Washington and the capitals of Indochina. We must finally disengage from our direct and often manipulative involvement in the remaining political and military confrontations of the area. We must finally chart some new beginnings in helping to repair the damage of conflict and heal the wounds of war. And we must finally shift our focus from fueling death and destruction to accomplishing the political goals of the cease-fire agreements.

Along with continuing congressional initiatives—and appropriate diplomacy by this administration—the amendment

I introduce today contributes to these ends.

THE ADMINISTRATION'S PROPOSAL

Mr. President, a crucial issue for Congress—and all Americans—is the character, purpose, and massive level of the administration's budget request this year from Indochina. Every indicator—including reports from the field, my correspondence with Secretary of State Henry A. Kissinger earlier this year, and the administration's foreign assistance presentation to Congress—suggests that we are continuing to maximize American presence and influence in the area. Every indicator suggests that the administration is prepared to continue our client relationships with governments and political factions in Indochina—and our direct involvement in the confrontations among political elements throughout the area. And so today—after more than a decade of war, and after ceasefire agreements that afforded the opportunity for change—foreign aid remains a hostage of an unreasonable obsession with Indochina, because the administration needlessly chooses to continue the tired patterns and attitudes of the past.

Instead of coming clean on where we stand in our assistance to Indochina, the administration persists in misleading Congress and the American people on the true purpose and nature of our involvement in the area. There is much talk, for example, about how we are reducing our involvement in Indochina. But the fact remains that the administration's budget request of some $943 million for fiscal year 1975 is at least a third more than the same request for fiscal year 1974.

The congressional presentation says that the administration's proposal this year "is consonant with the objectives for relief and reconstruction, especially humanitarian assistance, in Indochina set forth in section 801 of the Foreign Assistance Act of 1973." But a closer look at the presentation suggests that while the humanitarian assistance allocation to South Vietnam has increased in absolute terms, it has actually decreased as a percentage of the total assistance requested. The situation is the same for Laos—as well as for the total budget request for all Indochina.

Moreover, this year, as last year, new cosmetics and euphemisms have been found in an apparent effort to meet congressional and public concerns, and to coverup the tired patterns and policies of the past. Nowhere is this more evident than in the administration's presentation on South Vietnam. What was called "supporting assistance" in 1973, was labeled "stabilization" assistance in 1974—and today it is called "support for specific sectors."

A first look at the presentation tells us that the controversial commercial import program has been abolished. But a second look tells us that this program is merely covered by new labels. And in the absence of any meaningful efforts to carry out the political goals of the ceasefire agreement—which is all but ignored in the administration's presentation—the purposes of the massive expenditures are not, in the main, to carry out "postwar reconstruction" or development, but to buy more time for the Thieu government and to keep Saigon's war-economy afloat.

In this connection, Mr. President, I would like to comment briefly on a claim being made by our Ambassador to Saigon and others in the administration. Again and again we are told by these officials that we must not let up on our support for South Vietnam. If we can spend as the President requests, they say—for 2 or 3 years more—we can finally disengage, because South Vietnam will have "taken-off" and become economically self-sufficient. As others before them, these officials see light at the end of new tunnels—and needlessly perpetuate America's heavy involvement in Indochina.

Given our past experience with such speculation over developments in Vietnam, Congress and the American people have good cause for skepticism. Moreover, we are confronted with an interesting anomaly as we consider the administration's justifications for the different sectors of our assistance to South Vietnam. For example, in past weeks, during the Senate's consideration of various military aid requests, the administration was suggesting that a critical military situation existed in South Vietnam. We were even told of a possible invasion by North Vietnam, and dire predictions were made if Congress failed to meet the President's budget requests. But at the same time the administration was suggesting relative calm in South Vietnam to justify its massive request for postwar reconstruction and "take-off" funds. The presentation to Congress was suggesting that "the fighting in South Vietnam has subsided," and that "the military situation is relatively stable."

But the administration cannot have it both ways—on the one hand portraying South Vietnam as facing a desparate military threat, and on the other hand suggesting conditions are ripe for investment, economic development, "take-off," and self-sufficiency. On this point, as well, World Bank reports deserve consideration. According to their estimates, South Vietnam, even under the best of circumstances, will be dependent upon massive levels of outside aid until at least the 1980's.

One of the most glaring omissions in the administration's budget request relates to promoting and strengthening international cooperation in helping to heal the wounds of war. As I suggested in this Chamber on June 27, an important theme in discussions over assistance to Indochina—especially over humanitarian assistance—has been the hope in many quarters that a good share of this effort could be carried out under some form of international auspices—if not on a regional basis, then at least for some of the special people problems and needs which exist in the separate war-affected areas.

I have shared this hope. And, along with other Members of the Senate, I have long advocated that our Government actively encourage and support initiatives for the expanding participation of the United Nations, its specialized agencies, the International Red Cross, and similar organizations in relief and rehabilitation programs in Indochina. Senators may recall that last year, the Senate adopted my amendments for this purpose to the fiscal year 1974 foreign assistance authorization bill.

The record is clear that a number of governments are prepared to support and contribute to expanding humanitarian programs under the international auspices. This record is clear that the International Red Cross is prepared to upgrade and expand their efforts. The record is clear that the United Nations stands ready to help. The record is clear that UNICEF has new programs underway, that the United Nations High Commissioner for Refugees—UNHCR—is soliciting international support, and that other offices and agencies of the United Nations are also prepared to move on meeting humanitarian needs in Indochina.

But the administration's policy toward internationalizing assistance for Indochina has been ambiguous to say the least. Despite public statements to the contrary—before the Refugee Subcommittee and elsewhere—our Government has done very little to encourage and support humanitarian initiatives by the United Nations and other international bodies. In fact, apart from indicating some token contributions to International Red Cross programs, the administration's presentation on foreign aid totally ignores the creative possibilities in this area of public policy and concern. And even though in recent weeks a more positive attitude seems to be developing within our Government, the administration is attaching unreasonable conditions to our support of international programs—and some high officials in our Government seem determined to scuttle some small programs already in operation.

I submit that such attitudes on the part of our Government undercut the effectiveness of such organizations as UNICEF and UNHCR, and threaten to unravel the international framework needed to meet the massive needs of orphans and children and war victims throughout Indochina.

Mr. President, the time is long overdue to stop the foot-dragging and negativism. The time is long overdue for America to be generous in its concern for war victims—and in its support of international efforts to meet their needs. The amendment I am introducing today would help to accomplish this end. And I appeal to the administration to break with the past, and actively support new directions in our assistance policy toward the countries of Indochina.

FUNDING FOR INDOCHINA

Mr. President, as I suggested earlier, the amendment I am introducing today reduces the President's request for assistance to South Vietnam, Laos, and Cambodia—from some $943,300,000 to $475 million—pending our development of a new national assistance policy toward Indochina, and a more stable political and military situation throughout the area. This $475 million is a generous

amount, I feel, to meet our immediate humanitarian responsibilities—and to provide some basic transition support to the governments involved. If we apply the tests of humanitarian and basic support objectives to our proposed assistance, a great deal can, and must, be cut back or eliminated from the President's request.

The President's pending request for $943,300,000 is allocated as follows:

South Vietnam	$750,000,000
Laos	55,200,000
Cambodia	110,000,000
Regional development program	9,400,000
Aid support costs	18,700,000

My amendment authorization of $475 million could be allocated along these lines:

South Vietnam	$375,000,000
Laos	33,000,000
Cambodia	47,000,000
Regional development program	10,000,000
Aid support costs	10,000,000

Again, in applying the tests of humanitarian and basic support objectives to the administration's allocation to South Vietnam, relief and rehabilitation projects for war victims—and related projects to improve health care and education and agricultural production—should be given full support. But I strongly feel that the number of American personnel should be substantially reduced, that several projects recommended by the administration should be totally eliminated, and that still others should be drastically cut back.

The projects labeled trade union development, highway advisory assistance, Vietnamese engineering and construction company, industrial park, export processing zone, and some others should be eliminated. Such projects lack humanitarian priority and are part of the illusion that Saigon's wartime economy is ready for "take-off."

Drastic cuts should be made in other projects—such as rural credit—and also in the commercial import program, which, despite administration claims, continues. In fact, serious consideration should be given to phasing out the commercial import program in favor of a multilateral stabilization program along the lines currently operative in Laos and Cambodia. This would end, once and for all, America's direct and singular responsibility for supporting Saigon's foreign exchange needs.

In the case of Laos, we should do what we can to support the newly established Provisional Government of National Union—PGNU—which is a coalition between the former Royal Lao Government and the Pathet Lao. Reports suggest that our projected contribution of some $17,500,000 to the multilateral foreign exchange operations—stabilization—fund will serve this purpose. But several indicators—including the administration's presentation to Congress and a June 10 GAO report prepared for the Subcommittee on Refugees—suggest that much of the remaining part of the administration's request for Laos is slated for one faction of the coalition government and for operations in territory controlled by the former Royal Lao Government forces.

I fully appreciate the difficult problems in bringing normalization and peace to the people of Laos, and the added problems in bringing a unified administration to all areas of the country after many years of civil war. We must surely recognize the need for a time of transition; but we must not loose sight of our obligation to give the new government a chance to work. We must guard against using our rehabilitation and reconstruction assistance to Laos to perpetuate old relationships and the division of that country, which can only deter the hopeful process of accommodation and reconciliation, and threaten renewed conflict in several areas.

I am extremely hopeful, therefore, that the administration will make every possible effort to channel basic humanitarian assistance to Laos through international organizations—such as UNICEF, UNHCR, and others—with the clear understanding that the purpose of our aid is to assist in the rehabilitation of war victims and the renewal of cropland and agricultural production in all areas of the country. Longer term development projects recommended by the administration—such as the Vientiane water control and Mekong Vientiane dike projects—should probably be deferred until greater stability is achieved in the new government and the projects can be undertaken with greater international participation.

The situation in Cambodia is dismal at best—with a truly desperate crisis of people and dwindling territory under the control of the Phnom Penh government. Clearly, the overriding need in Cambodia today is a cease-fire agreement and a political resettlement along the lines of recent developments in neighboring Laos—and we should do everything possible to accomplish this end. Meanwhile, our immediate responsibilities are the emergency relief and medical needs of refugees, civilian war casualties, orphans, and others in distress—whose numbers tragically grow with each day of continuing war. We should also continue, along with other governments, our support of Cambodia's exchange support—stabilization—fund. But the administration's request of $71 million for the commodity import program should be drastically reduced, if not eliminated altogether.

Mr. President, although my amendment does not include any reference regarding military assistance to Laos and Cambodia, which is also contained in S. 3394, I want to express my deep concern over the administration's requests for these countries. Especially distressing is the $86,100,000 allocated for Laos. The purpose, intent, and level of these requests should be carefully reviewed by the Foreign Relations Committee—and appropriate reductions should be made in the administration's proposal.

I have outlined briefly what I feel are some of the principal issues facing our country regarding assistance to Indochina. And a great deal more will be said by all of us in the coming weeks and months. I believe Congress acted responsibly last year in its effort to limit our funding in Indochina. That wise decision—that our aid must go down, not up—should not be reversed now. And in the absence of any new directions and initiatives from our national leadership, it is incumbent upon Congress that it contribute to develop responsible alternatives.

In conclusion, Mr. President, let me say that our future aid to Indochina can no longer be seen or considered in isolation from our other pressing commitments and responsibilities here at home and abroad. For too long our entire foreign aid program has been held as a hostage to our involvement in Indochina. For too many years we have seen other important foreign assistance programs sacrificed in order to meet the exorbitant demands of Indochina. We have watched congressionally appropiated funds for poor countries shifted to pay bills in Saigon. And we have seen critically important humanitarian assistance programs in other areas neglected or abandoned, because money was needed to fuel war and conflict in Southeast Asia.

We are told by Secretary Kissinger that our foreign assistance program is—

> A faithful expression of our moral values . . . it reflects the humanitarian dimension of the American character.

But if money for guns and for security assistance are reflections of "moral values," words have then lost their meaning, even as our foreign assistance program has lost its bearings. It is a sad reflection on "the humanitarain dimension of the American character" when—even in the budget request for Indochina—only a very small fraction of the request goes to help the millions of people really in need.

Recent history tells us that instability and "threats to the peace" involve more than balances of power or arms races or military confrontations. Famine can be a threat to the peace. Pervasive, spreading poverty—a widening gap between the rich nations and the poor nations—spawn conflict and instability around the globe. Uncontrolled competition for food and energy resources threaten peaceful relations. And disasters, such as the drought in Africa and hunger in Asia, have produced human tragedy as great as a war. Our foreign assistance program can no longer be blind to the real and growing threat to the peace and security of the world: famine, poverty, disease, and dwindling resources.

The time is long overdue to lose our obsession with the war economies of Indochina, and to begin the needed effort to renew our concern for people in the allocation of our tax dollars overseas.

Mr. President, I ask unanimous consent that the full text of my 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. 1550

On page 4, strike out line 7 through 16, and insert in lieu thereof the following:

SEC. 4. Sections 801 and 802 of the Foreign Assistance Act of 1961 are amended to read as follows:

"SEC. 801. GENERAL AUTHORITY.—(a) The President is authorized to furnish, on such terms and conditions as he may determine, assistance for the relief, rehabilitation, and reconstruction of Indochina, especially humanitarian assistance for refugees, civilian war casualties, war orphans, and other persons disadvantaged by hostilities or conditions relating to those hostilities, and reconstruction assistance for the rebuilding of civilian facilities damaged or destroyed by those hostilities in the war affected areas of Indochina.

"(b) Assistance for such purposes shall be distributed wherever practicable under the auspices of and by the United Nations and its specialized agencies, other international organizations or arrangements, multilateral institutions, and private voluntary agencies with a minimum presence and activity of United States Government personnel. The Congress urges the President to solicit the cooperation of other governments to support and participate in the humanitarian relief, rehabilitation, and reconstruction of the people and countries of Indochina under international auspices.

"(c) No assistance shall be furnished under this part or any other provision of law, and none of the local currencies accruing under this part or any other provision of law, shall be used to furnish funds, commodities, equipment, advice, training, or personnel for the support of detention facilities, prisons, police, or other internal security forces, or any program of internal intelligence or surveillance in South Vietnam, Cambodia, and Laos.

"SEC. 802. AUTHORIZATION.—(a) There are authorized to be appropriated to the President to furnish assistance for relief, rehabilitation, and reconstruction of Indochina as authorized by this part, in addition to funds otherwise available for such purposes, for the fiscal year 1974 not to exceed $504,000,000, and for the fiscal year 1975 not to exceed $475,000,000 which amounts are authorized to remain available until expended: *Provided*, That a significant portion of the funds authorized by this part shall be distributed for humanitarian purposes under the auspices of and by the United Nations and its specialized agencies, other international organizations or arrangements, multilateral institutions, and private voluntary agencies.

"(b) The provisions of section 610(a) and 614(a) shall not apply with respect to funds made available under this part. No funds shall be made available to any country of Indochina under part I of this Act."

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1457

At the request of Mr. MATHIAS, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of amendment No. 1457, to H.R. 14832, the public debt limit bill.

AMENDMENT NO. 1449

At the request of Mr. TUNNEY, the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of amendment No. 1449, intended to be proposed by him, to S. 3035 to amend title 23, United States Code, the Federal Highway Act of 1973, and other related provisions of law, to establish a unified transportation assistance program, and for other purposes.

AMENDMENT NO. 1542

At the request of Mr. DOMENICI, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of amendment No. 1542, that would exempt small businesses from mandatory compliance of CPA issued interrogatories, intended to be proposed to S. 707, the Consumer Protection Agency Act.

NOTICE THAT THE SECRETARY OF STATE WILL APPEAR BEFORE THE SUBCOMMITTEE ON APPROPRIATIONS FOR FOREIGN OPERATIONS

Mr. INOUYE. Mr. President, in connection with its fiscal year 1975 hearings the Subcommittee on Appropriations for Foreign Operations has been keenly anticipating the appearance of the Secretary of State. Unfortunately, it has been necessary to schedule and reschedule the Secretary's appearance a number of times since he was first scheduled to appear on May 23.

This has understandably created some confusion both in Congress and the executive branches supporting the congressional justifications of the foreign assistance program.

I am now in a position to advise, however, that the Secretary will appear before the subcommittee at 10 a.m., Wednesday, July 24, in room 1114 of the Dirksen Senate Office Building.

ANNOUNCEMENT OF A PUBLIC HEARING BEFORE THE WATER AND POWER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Water and Power Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for July 18, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 3740, a bill to amend the act of August 16, 1972 authorizing construction, operation, and maintenance of the Fryingpan-Arkansas project, Colorado, to provide for the incorporation of pumped storage hydroelectric facilities.

For further information regarding the hearing, you may wish to contact Mr. Dan Dreyfus of the subcommittee staff on extension 51076. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Water and Power Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

ANNOUNCEMENT OF HEARINGS ON S. 2801, THE FOOD SUPPLEMENT AMENDMENT OF 1973

Mr. KENNEDY. Mr. President, I wish to announce hearings by the Subcommittee on Health of the Committee on Labor and Public Welfare on S. 2801, a bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes.

The hearings will be held in room 4232 of the Dirksen Senate Office Building on August 14 at 10 a.m. and on August 21 at 10 a.m. Persons wishing to testify should contact Ms. Jessica Silver, subcommittee counsel, at 225–7675 not later than July 26, 1974.

ANNOUNCEMENT OF HEARINGS ON S. 3548

Mr. PELL. Mr. President, it is with great pleasure that I announce a hearing by the Subcommittee on Education of the Senate Committee on Labor and Public Welfare on S. 3548, which would establish the Harry S Truman Memorial Scholarships, which will be held on Thursday, July 18, at 10 a.m. in room 4232, Dirksen Senate Office Building.

This measure, introduced by Senator SYMINGTON and cosponsored by 62 Senators, has great support throughout the country. Those who wish to testify or submit statements should contact Stephen J. Wexler, counsel to the Education Subcommittee.

ANNOUNCEMENT OF PUBLIC HEARINGS BEFORE THE WATER AND POWER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of public hearings before the Water and Power Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

One hearing is scheduled for July 18, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 3568, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Cibolo project in Texas.

A second hearing will be held on July 19, beginning 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regrading two bills which are presently before the subcommittee. The measures are: S. 3513, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Neuse River project in Texas, and S. 3704, a bill to amend section 1 of Public Law 90–503 (82 Stat. 853) in order to provide for the construction, operation, and maintenance of facilities to deliver a water supply to the city of Frederick Okla., from the Mountain Park reclamation project.

For further information regarding the hearings, you may wish to contact Mr. Daniel A. Dreyfus of the subcommittee staff on extension 51076. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Water and Power Re-

sources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

NOTICE OF HEARING ON MORTGAGE CREDIT

Mr. SPARKMAN. Mr. President, on June 20, 1974, I announced that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs would hold 2 days of hearings, on July 10 and 11, 1974 on S. 3436, a bill introduced by Senator BROOKE to increase the availability of mortgage credit for residential housing, and S. 3456, a bill introduced by Senator CRANSTON to provide emergency mortgage relief for middle-income families.

Because of a conflict, these hearings have been rescheduled and will now be held on August 6 and 7, 1974, beginning at 10 a.m. each day, in room 5302, Dirksen Senate Office Building.

The subcommittee would welcome statements for inclusion in the record of hearings.

ADDITIONAL STATEMENTS

U.S. ARMS SALES TO MIDDLE EAST COUNTRIES

Mr. KENNEDY. Mr. President, I would like to call the Senate's attention to an article in yesterday's New York Times, regarding the massive increase in U.S. arms sales to Middle East countries during the past year. Total arms sales doubled during 1973–74, and nearly $7 billion went to the Middle East, not including arms support for Israel and Jordan. Equally striking, the Export-Import Bank has lent Iran $200 million in low-interest loans to buy arms, although Iran's oil earnings have risen by a staggering amount during the past year.

Many of us here in the Senate are deeply concerned by this trend. To be sure, arms sales help our balance of payments; to be sure, they help pay for the oil we need from the Middle East. But in arming the nations of the Persian Gulf—seemingly without thought or discrimination—we may be buying ourselves more trouble for the future than could possibly be offset by even far higher levels of earnings from the sale of arms.

Unfortunately, the Congress has little or no control over the bulk of these sales. At the same time, the administration does not seem to have a coherent policy toward that important region, that would allow it to decide whether arms sales either help or hinder our long-term interests there. By default, our policy is being made by the Pentagon's Defense Security Assistance Agency—an agency whose very title obscures its function. And our policy there is being made by thousands of arms salesmen—including hundreds of military attachés—without effective control by our Nation's civilian leaders.

We in the Congress must look carefully at these arms sales, and reassert our constitutional function to review the foreign policy of the Nation. Someday we may be called upon to pay the bill that is being run up now by this unguided policy of selling arms in the Persian Gulf; surely we should have some say, now, before it is too late.

Mr. President, I ask unanimous consent that this article, by Leslie Gelb, be printed in the RECORD.

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

U.S. ARMS SALES DOUBLED IN 1973–74; REACH $8.5 BILLION

(By Leslie Gelb)

WASHINGTON, July 9.—The United States sold some $8.5-billion in arms for the fiscal year that ended last month, almost double the arms sales for the previous fiscal year and almost $2-billion more than all the arms sold or given away by all nations in 1971, according to official Pentagon estimates.

The bulk of American arms sales, some $7-billion, went to the Middle East and the Persian Gulf area. This total does not include the $1.5-billion in arms provided free of charge to Israel plus several million dollars in arms grants to Jordan and Lebanon.

While the United States remains the world's leading arms supplier, other nations are also selling more.

SOVIET SOLD $2 BILLION

Pentagon estimates for arms sales in 1973 show the Soviet Union with over $2-billion, its East European Allies with over $500-million and American allies with over $2-billion. These figures are all expected to be higher for 1974, but official estimates are not yet available.

Soviet arms sales—Moscow does not provide free arms—went mainly to nations in the Middle East such as Egypt, Syria and Iraq.

Arms control experts in the Government estimate that worldwide arms sales in the nineteen-seventies thus far have about equaled total arms sales for all of the sixties, even discounting for inflation.

The goal of the American program, according to Government sources, has been to pile up balance-of-payments dollars at least as much as to meet defense and diplomatic requirements.

WITHOUT POLICY REVIEW

The increase in American arms sales, Pentagon and State Department officials said, has taken place without a policy review of the program and with decisions on specific contracts made on an ad hoc basis.

By law, Congress has authority only over arms sales covered by Defense Department sales credits and credit guarantees, about 15 per cent of the total. Congress has no voice and little knowledge of 85 per cent of the effort involving Pentagon-sponsored cash sales and commercial sales.

American sales included over $4-billion for Iran, over $1-billion for Israel and around $700-million for Saudi Arabia. Sales to the area included modern aircraft, the F–4, F–5, and F–14, plus helicopters and various types of missiles.

The F–14 is a long-range, high-performance aircraft firing the most modern missiles and is just now coming into use by American forces. The cost of one F–14 to the United States is about $20-million. Its cost to other nations is somewhat higher.

In addition to the large sales to Iran, Israel and Saudi Arabia, there were about $100-million to Kuwait, several million dollars to the United Arab Emirates, Lebanon and Jordan as well as Pentagon-sponsored cash sales and commercial sales.

EXIMBANK LOAN TO IRAN

In a recent report to Congress, the Export-Import Bank reported that the Pentagon had arranged for the bank to provide a direct long-term low-interest credit to Iran of $200-million in 1974 "for exports of defense articles and services." Iran has earned billions of extra American dollars since the rise in oil prices.

Secretary of Defense James R. Schlesinger recently described the sales program in the Middle East as an attempt to "strengthen deterrence and promote peaceful negotiations by helping our friends and allies to maintain adequate defense forces of their own."

He added the need to match Soviet arms sales and to maintain "continuing access" to oil.

Other officials speak of the program in the Middle East more in terms of maintaining the American arms industry and labor market and earning balance-of-payments dollars against the new high deficits created by the current price of oil.

Several officials cited a directive by President Nixon, dated Dec. 20, 1973, to establish an interdepartmental committee on export expansion, as giving full approval to an open-ended arms sales effort.

OTHER POTENTIAL SELLERS

All the officials interviewed said that if the United States was not willing to sell arms, other nations should. Some said there had been an influx of European sellers into the Latin-American arms market while Washington restrained its sales.

Many officials noted an ambivalent Congressional attitude toward the sales program. For years Congress has urged an end of free arms grants and wider sales programs. Now that this is being done, Congressional committees have begun attacking the sales.

In last year's report, the Senate Foreign Operations Subcommittee stated: "We must visibly deny ourselves the short-range advantage of military equipment sales as a step toward de-escalating the build-up of military facilities throughout the world."

While there has been a sharp rise of American arms sales to the Middle East, sales to other parts of the world have remained relatively constant. The 1974 totals were: East Asia and the Pacific, $320-million, Western Europe $655-million; Africa $35-million; Latin America $220-million. These do not include commercial sales.

PROJECTIONS FOR 1974–75

Projected sales for the current fiscal year, according to Pentagon estimates, will be $650-million in Pentagon credit sales and guarantees of private sales, $3.3-billion in Pentagon-sponsored cash sales, and about $615-million in private commercial sales for a total of nearly $5-billion.

The American arms are sold by thousands of civilian and military attachés and advisers. They tell prospective customers what is available and find out what the customers want. At the center of this network is the Defense Security Assistance Agency in the Pentagon, now headed by Vice Adm. Ray Peet.

Salesmen from this agency coordinate all activities, arrange for various kinds of financing or cash sales, and close the contracts. At the State Department, the Office of Munitions Control is in charge of licensing arms exports for commercial sales, but not for most sales under the cash program.

Policy-level officials from the Treasury and Commerce departments are involved in certain phases of the arrangements as are policy-level officials in the Pentagon and State Department.

TAKE A BITE OUT OF GOVERNMENT

Mr. McCLURE. Mr. President, Boise, Idaho, was the site of a tremendously successful testimonial dinner recently. The event honored Congressman STEVE SYMMS and proved to be the most well-received dinner of its kind in recent Idaho history. Guests at the dinner arrived in charter flights from throughout Idaho. The Honorable Ronald Reagan, Governor of California, was the main speaker for the evening, along with Con-

gressman SYMMS. Political observers had to admit it had been quite a long time since they had seen anything like it.

Recent polls indicate that more and more Americans think of themselves as conservatives. They feel more comfortable with a philosophy advocating an increase in individual freedom and less Government control. For this reason, I would like to bring a page from the printed program to your attention, as it eloquently expresses not only the mood of the evening, but also the feelings of a growing number of Americans. I ask unanimous consent that the excerpt to which I refer be printed in the RECORD.

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

TAKE A BITE

The 1972 campaign theme, "Take a bite out of government," has come to mean far more than the clever slogan of a freshman congressman. Government, today, has become too big, too complex and too intrusive. It has usurped the basic purpose given it by the founding fathers who envisioned this country rich in individual liberty, responsibility, and accountability. Each citizen should be free to do his own "thing" so long as that "thing" does not encroach upon the life and liberty of another. The purpose of government is clearly stated in the Declaration of Independence: "All men are endowed with certain inalienable rights, such as life, liberty and the pursuit of happiness. To secure these rights governments are instituted among men."

We think a political candidate should be judged on the principles he holds more than on just the immediate issues at hand. Issues will change. Principles must remain firm. One cannot be in favor of more individual liberty and more government. The two just do not go hand in hand. Reduction in government means balanced budgets, free trade and exchange, and freedom to produce. Limited government also means individual initiative and responsibility—not interventionism. Creative progress and release of human energy have been greater in America than in any other country in history because government restrictions were fewer. The "American Experiment" has truly been a phenomenon to world history. It is predicated upon the positive human initiative and restricted government. Its fundamental truths are simple: life, liberty, equal opportunity and equal justice for all.

The elements of this American life style are found in the Declaration of Independence, the Ten Commandments, and the Golden Rule.

The Symms' "Bite" then, stands for the positive and challenging elements of our lives—limiting the restrictive and encouraging the inventive.

If we leash man we produce more government control of our lives. If we harness the government we free the creative energies of man.

With this general reasoning we support Steve Symms' stewardship of the First Congressional District as the most enthusiastic positive political effort in recent Idaho history and hereby extend our genuine thanks to him for doing just what he said he'd do—namely: "Take a Bite Out of Big Government." We wish his, and our, good luck for yet another "Bite" this coming November.

JIM MERTZ,
Chairman, Symms for Congress.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the horrors of Nazi-sponsored mass exterminations in World War II spurred the creation of the International Convention on the Prevention and Punishment of the Crime of Genocide. Adopted unanimously by the General Assembly of the United Nations in 1948, it has since been signed by more than 75 nations. Regretably, the United States has not yet ratified the convention.

Perhaps the principal reservation cited by those who have opposed ratification of the treaty is based upon the belief that the United States should not seek to further expand its international commitments. Acceptance of the convention, these critics assert, may obligate the United States to take action against its own citizens at the behest of an international tribunal. This potential for invasion of American sovereignty, however, could easily be quashed by simply attaching declarations of understanding to the final Senate ratification resolution. The Senate Foreign Relations Committee, in fact recommended four such declarations—statements that would clearly preclude any violation of our national sovereignty—when it reported favorably on the treaty in May of 1971. Fear for our country's independence is thus not justified; rather, we are confronted with a moral choice.

For more than 25 years this body has failed to ratify the genocide convention. For more than 7 years I have each day sought to remind my fellow Senators of the value of and the need for prompt approval of the treaty. I intend to continue to do so until we recognize our collective moral obligation to act against this most depraved of crimes.

SHOULD EARL SILBERT BE PROMOTED?

Mr. ERVIN. Mr. President, during the past several months the Senate Judiciary Committee has been considering the nomination of Mr. Earl Silbert to be U.S. attorney for the District of Columbia. I have expressed my concern about this nomination because of the serious questions which have arisen about the government's investigation and prosecution of the Watergate burglary of June 17, 1972. Mr. Silbert, then an assistant U.S. attorney in the District of Columbia, had principal responsibility for the conduct of this investigation and prosecution.

In an article published by the Washington Post, on July 11, 1974, Walter Pincus sets forth some of the questions about the conduct of the Watergate investigation and prosecution which have concerned some members of the Judiciary Committee including myself. 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:

A PROMOTION FOR EARL SILBERT?

(By Walter Pincus)

Earl J. Silbert, who as an assistant U.S. attorney for the District of Columbia who directed the original Watergate investigation and prosecution, is up for promotion. But his nomination by President Nixon to be the U.S. Attorney for the District has run into trouble in the Senate Judiciary Committee. It should.

My review of court records, plus the testimony and documents available since, raise questions about Silbert's original approach to the prosecution and about the manner in which he conducted his initial investigation.

Silbert and his supporters maintain these days that the prosecutor and his staff always had suspicions that higher-ups were involved, but claim they couldn't break the conspiracy until they had convicted the original Watergate seven. Then they planned to put those individuals involved back before the grand jury, this time with immunity. It was that strategy, Silbert now maintains, that led to the break down of the cover-up.

In February 1973, immediately after conclusion of the Watergate trial, Silbert was telling a different story. He told me it was a waste of time to plow through the trial transcripts and courtroom exhibits for a story because he believed the case was over. Sure, Silbert said, the seven convicted conspirators were going to be put back before the grand jury with immunity, but he did not expect them to say anything. Silbert told me and other newsmen in those days he was convinced the Watergate affair was just as he had portrayed it to the trial jury—an escapade thought up and run by G. Gordon Liddy, off on his own to gain favor with his bosses.

On July 5, 1972—less than three weeks after the burglars were discovered in Democratic headquarters—Alfred C. Baldwin III, the man who monitored some 200 phone calls over a bugged phone, agreed to cooperate with the prosecutors in return for a promise he would not be indicted. By July 10, Baldwin had told his whole story to Silbert and the FBI. With all the other potential defendants and suspects remaining silent and with neither of the two bugs Baldwin described having been uncovered by the FBI, Baldwin's statement was the first solid indication that a wiretap had actually been operating.

That changed the case from a "third rate attempted burglary"—as the White House had described it—to a successful burglary and wiretap followed by an unsuccessful second attempt. Baldwin also told the prosecutors of the participation of E. Howard Hunt and Liddy. And he reported that on the night of the arrests, he had taken to the home of James McCord—one of the arrested burglars—and given to McCord's wife the radio receiver over which he heard the bugged phone conversations and the walkie-talkies he and Hunt used. Baldwin also told the prosecutors about an attempt to bug McGovern headquarters prior to June 17, 1972.

What happened to those leads on the bugging? Although Baldwin had identified the phone of Democratic aide Spencer Oliver as the one tapped, Silbert did not immediately send the FBI in to check Oliver's phone. He told the Judiciary Committee he was assured the FBI already had checked all the Democrats' phones and didn't find a bug on any of them. In at least one instance Silbert told a questioner he could not forward information about the Oliver bug because he had been asked by Baldwin to keep his cooperation confidential. That's nonsense, since an FBI agent sat in on the Baldwin interview and a summary of his information was contained in the July 21, 1972, FBI report sent to the White House.

There is another questionable twist involving Silbert and the Oliver bug. On Sept. 13, 1972, the Democrats themselves uncovered that bug which was still on Oliver's phone. It was turned over to the FBI, whereupon the Bureau launched an extensive investigation of Democratic Party and McGovern campaign employees aimed at finding out who among them had planted the device. Within three weeks, 102 employees had been interviewed—a startling figure when compared with the 65 Nixon reelection committee aides and 21 White House staff members who were questioned

by the FBI during the months of the Watergate inquiry.

Silbert now claims he always knew the bug found on Oliver's phone was the original one planted by McCord. Yet the FBI, whose efforts he directed, waited over a month, until Oct. 16, 1972, before testing the bug itself and finding that it transmitted on the exact frequency Baldwin had earlier said he tuned to when listening to the phone conversations.

Then Attorney General Richard Kleindienst announced in a September public television interview he believed the Oliver bug had been planted by the Democrats. Silbert never contradicted his boss. He now says he was unaware of Kleindienst's remarks, yet a story about them was carried prominently in The Washington Post.

Back in July 1972, when Silbert first learned of Baldwin's delivery of the receiver and walkie-talkies to McCord's home, the logical action of a prosecutor would have been to swear out a search warrant. Silbert did not do that. He now says he doubts the equipment would have been there since McCord had been released from jail and would have hidden it. He had. But months later, Silbert's resourcefulness and desire to get the receiver led him to do stranger things than putting out a possibly unsuccessful warrant.

In September, about the time the indictments were finally brought against the original seven, Silbert called McCord's wife and his daughter to the grand jury to testify about the equipment. When that did not get him what he wanted, he called McCord's lawyer and threatened to indict McCord's wife as an accessory if the receiver and other equipment were not turned over. That worked. Why wasn't something like that done earlier?

While Silbert bore down on McCord, he treated the higher officials at the Nixon reelection committee and the White House staff with kid gloves. He agreed to let Kenneth Parkinson and other Nixon committee lawyers sit in on FBI interviews of the campaign employees. Even when the FBI complained that lawyers were telling interviewees which questions to answer, Silbert continued the practice. Finally, he now says, he moved the investigation into the grand jury. Nonetheless, Parkinson and his colleagues still played a major role in arranging for witnesses.

One specific instance is worth exploring. Herbert Porter was scheduling director for the campaign. About 10 days after the burglars were caught, Porter agreed to back up a phoney story devised by Jeb Stuart Magruder, the purpose of which was to cover-up the money given Liddy to pay for the Watergate operation. At the request of Parkinson, Porter and Magruder put their story down on paper. It was only after that was done that—on July 19—the FBI asked to interview Porter. At Parkinson's suggestion, a Nixon lawyer sat in. In early August, according to Silbert, the prosecutors considered Magruder a potential target of their investigation. Porter's story was the only thing that corroborated Magruder on the purpose of the cash he approved to be given Liddy. It was Parkinson, however, not Porter with whom Silbert spoke about getting Porter to the grand jury. And when Parkinson told Silbert that Porter was too busy to have an interview prior to his grand jury appearance, Silbert accepted that. Thus a key witness was never questioned privately by Silbert before going to the grand jury to tell his story.

Silbert also was restrained in directly investigating Magruder, though he now says he always was suspicious of the deputy campaign director. Silbert never had the FBI interview Robert Reisner, Magruder's administrative assistant. (Parkinson told Porter not to mention Reisner in front of the grand jury.) Nor when Magruder's datebook showed a key meeting of Liddy, Magruder, Attorney General John Mitchell and John Dean, did Silbert question Magruder's appointment secretary—even after Magruder testified (falsely) that the meeting had been canceled.

On Oct. 25, 1972, while pre-trial motions were being heard before Judge John Sirica, Silbert offered McCord a chance to plead guilty to one count if he would become a government witness. Why was that done? In an amazing statement to the Judiciary Committee, Silbert said his intention was "to secure McCord's cooperation, particularly disclosure from him as to what he did with the (wiretap) logs, so that prior to the election, through his plea, the public might know." It is hard to believe that Silbert, given his caution up to that point, would have been planning public release of McCord's statements—had he given any—within weeks of a presidential election. What makes the proposition less believable is that in November Silbert made a second, less attractive offer to McCord—not mentioned in his Judiciary Committee statement—because, according to McCord's lawyer, Silbert said they had less need for his testimony.

Should the Judiciary Committee approve the Silbert Nomination, the Senators would be indicating to future career Justice Department prosecutors that his handling of the difficult Watergate investigation and prosecution was a standard to be emulated. The committee's action would also be interpreted as supporting the President's contention that the Watergate case was handled correctly from the start; and that a cover-up hidden from an able, aggressive prosecutor could easily be hidden from a President busy running the country.

Perhaps Silbert has—thanks to hindsight—received more criticism than he deserved. But, based on the record, does he deserve a promotion?

NORMAN KIRK

Mr. HARTKE. Mr. President, at a time when leaders and governments around the world are coming under increasing public scrutiny, it is interesting to note one leader who is secure and who is moving his country in a new direction leading to international recognition. I am referring to a friend of mine, the Honorable Prime Minister of New Zealand, Norman Kirk.

Mr. President, I ask unanimous consent that an article appearing in the March 8 issue of "To the Point" by Russell Gault entitled, "Kirk: Master of Kiwi Politics," be printed in the RECORD.

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

KIRK: MASTER OF KIWI POLITICS

(By Russell Gault, Wellington)

In spite of dramatic fluctuations in popularity few political observers doubt that New Zealand's Labour Party ruled by "Big Norm" Norman Kirk will romp home for another three years next year. And Kirk is the reason.

He stands far above all the lightweights in his cabinet, and the majority of the National Party Opposition dominated by ageing conservatives of a bygone era. He is the master of New Zealand politics today.

At home he is the "doer" of the government's impressive record of new policies over the past year. He seems to have limitless energy and a capacity for work that has not been seen in Dominion politics for many years. He is also the champion of the Little Man. He appears determined to coddle him from the cradle to the grave as the old derisory maxium says of the welfare state mentality.

Since he came to power with a 23-seat majority in the 84-seat Parliament 14 months ago, Kirk has:

Regularly reviewed income limits for three per cent state loans.

Raised loan limits.

Extended loans.

Increased the number of state houses for rental.

Bought existing homes to increase the pool of state rental houses.

Increased pensioner and other benefits three times and instituted special Christmas payments.

Established a fund to ease high interest rates and to assist refinancing of high interest second mortgages.

Fought lawlessness by having the police hound motorbike gangs relentlessly.

His measures, including increased state rental housing for lower and middle income families, have been well received by the country's 1½-million voters. Most New Zealanders tend to relate Kirk with the government's progressive policies since it came to power, but for unexplained reasons the bad moves are deflected from Kirk on to the party instead. The South African rugby tour fiasco and the futile protest at French nuclear tests in which a New Zealand frigate stood to one side as a French warship comandeered a New Zealand protest yacht, the Fri, and beat up its crew, both backfired but harmed the Labour party rather than Kirk. Soon after the incident a national poll showed the Government's popularity dangerously far below that of the Opposition.

Recent national surveys have indicated Labour's popularity has waned but that Kirk's is higher than even before. Much of the reason seems to be Kirk's ability to communicate with the electorate. In comparison, his National predecessors who had been in power since 1960 were often criticised for being pompous and out of touch with the man in the street.

Kirk is certainly more in touch. But he is also less diplomatic. His prejudices are damned as patronising. For example his dislike of South Africa is extreme. Political journalists know he would like a reason to suggest to the South Africans that they withdraw their consular representation. When Petone Rugby Club announced its intention to tour South Africa this year he said: "I really wish people would not do this sort of thing. One would hope that sporting bodies would look at the effect of their decisions on the reputation of their country." He was pressed to deny Uganda entry into the Dominion to compete in the British Commonwealth Games because of General Amin's treatment of Asians. But he would only express disgust with Amin's statement about the Jews and Nazis.

In international affairs Kirk has probably been more active than any Prime Minister in the country's history.

He has given priority to establishing contact with Asian and Pacific nations and to convincing them that regional co-operation is a necessity. He told a meeting of these nations in Jogjakarta, Central Java, that politically and culturally they could have much in common. He has held talks with Malaysia, Indonesia, Papua, New Guinea, India, Bangladesh and handed out millions of dollars of aid. In Malaysia he gave a television set to a jungle village—together with a diesel generator to supply the electricity.

He has been to Australia to tell the Aussies he wants a better trade deal with them although it currently runs 2½ to 1 in their favour. He was described by local commentators there as "a very moderate man".

Kirk has also been to the United States, where he told President Nixon that New Zealand's future policies would concentrate on the rights and requirements of the world's smaller nations. And he cancelled a visit to China because of the looming problems of the fuel crisis.

Kirk's popularity stems from his determi-

nation to do things, whether right or wrong. Kiwis like it because it is a style of politics they have not seen for years.

With Australian Prime Minister Gough Whitlem looking like a raging radical and without control of his own party just across the Tasman Sea, New Zealanders seem to believe they have much the better deal with Kirk.

They could be right. On defence matters Kirk has refused to emulate the Australians by withdrawing Kiwi troops from Singapore. He is continuing to support the ANZUK Force established in 1971 under a five power defence arrangement involving Singapore, Malaysia, Britain, Australia and New Zealand. This replaced the British command which had dominated in the Far East from the last century.

Kirk's philosophy is that New Zealand should retain forces in the area so long as Malaysia and Singapore want them.

In line with his Asia-Pacific region thinking Kirk has fended criticism that he should establish diplomatic representation in Africa. In spite of increasing trade, particularly with South Africa, he says diplomatic priorities are with "our own region".

HECHINGER'S SUPPORTS CONSUMER PROTECTION AGENCY

Mr. PERCY. Mr. President, some in the business community have expressed forward-looking support for the proposed Consumer Protection Agency. Firms like Zenith, Motorola, and Marcor—parent company of Montgomery Ward and Container Corporation of America—recognize that what is best for the consumer is best for responsible business.

Recently, Hechinger Building Materials, Inc., a retail chain with stores throughout Maryland, Virginia, and the District of Columbia, has joined the ranks of corporate supporters of the Consumer Protection Agency.

In a letter to me, John Hechinger, the company's president, declared:

I think business' challenge for the Seventies is to act affirmatively and speedily on both consumer and government sensitivity to the new climate set by consumerism . . .

I propose the opposition [to the CPA] stop, and that there be a move toward the restoration of public trust by supporting the passage of the Consumer Affairs Agency bill.

Mr. President, I ask unanimous consent that the letter to me from Mr. John Hechinger dated July 1, 1974, be printed in the RECORD.

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

HECHINGER,
July 1, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: As the Senate nears the vote on the Consumer Protection Agency bill, I want you to know that there are some of us in the business community who urge its passage.

I base the success of my 63-year-old firm on our consumer relations.

I think the cynicism that the average citizen has toward government and its officials in the wake of Watergate is just as pervasive in the citizen's mind relative to business.

I think business's challenge for the 'Seventies is to act affirmatively and speedily on both consumer and government sensitivity to the new climate set by consumerism.

There isn't a reform since the beginning of our national history that business hasn't opposed, only to find that the reforms take place anyway.

I propose the opposition stop, and that there be a move toward the restoration of public trust by supporting the passage of the Consumer Affairs Agency bill.

Sincerely,

JOHN W. HECHINGER,
President.

FAIR DISTRIBUTION OF ALASKAN NATURAL GAS

Mr. BAYH. Mr. President, for several months now I have been working with the distinguished minority whip (Mr. GRIFFIN) and a bipartisan group of 25 Senators in support of proposals to transport the vast natural gas reserves in Alaska to the lower 48 States via Canada so this national energy resource can be used equitably throughout the United States.

Applications have been filed here in Washington and in Ottawa by a group of gas pipeline companies which propose to build a trans-Canadian pipeline and several distribution lines to transport Alaskan natural gas throughout the United States from southern California to New England. This proposal will insure adequate gas deliveries to Indiana and other Midwestern and Eastern States which will have no access to Alaskan oil because of the decision last year to proceed with the trans-Alaska oil pipeline.

The terms and conditions for a gas pipeline through Canada will be the subject of negotiations between our two countries later this year. The pipeline has wide support in Canada, and has been endorsed previously by Interior Secretary Rogers Morton who has now retreated to a neutral position.

Despite the probability of a sympathetic attitude toward the pipeline in Ottawa, there had been some concern expressed that the U.S. negotiators might use the pipeline discussions to raise other bilateral energy issues and thus impede progress on gas pipeline negotiations.

However, just prior to the recent Fourth of July recess a newspaper story appeared with a report that the State Department was prepared to conduct pipeline negotiations independently from other U.S.-Canadian energy issues. This news account by Ed Zuckerman, a respected reporter with the Ridder newspaper chain, is quite encouraging since such a reasonable negotiating posture increases the chances that terms can be worked out for the trans-Canadian gas pipeline. Because this development could have a major impact on this issue, Senator GRIFFIN and I have contacted the State Department to get formal confirmation of Mr. Zuckerman's story.

Mr. President, the decision on how to deliver our natural gas reserves in Alaska to U.S. markets goes to the heart of national energy policy. It will be debated before the Federal Power Commission, in the Interior Department, and may well involve future judicial and congressional action. Mr. Zuckerman's news story provides a useful insight into this issue, and I request unanimous consent to include this well-written and balanced account in the RECORD at this point.

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

GAS PIPELINE PROPOSAL GETS STATE DEPARTMENT BOOST?

(By Ed Zuckerman)

WASHINGTON.—A proposal to construct a natural gas pipeline through Canada may have received a timely boost from the U.S. State Department.

Sources in Washington are speculating that the State Department has abandoned its desire of negotiating an elaborate energy agreement with Canada, and when discussions between the two governments begin this fall, the pipeline proposal will be the sole topic on the agenda.

Several weeks ago, the sources said, the State Department notified the Canadian embassy that the U.S. is prepared to begin the negotiations.

PARAMETERS OF AGENDA

A Capitol Hill source claims the memo establishes "the parameters of the agenda," and that it exclusively covers pipeline issues.

A Canadian embassy official said "there has been no public exchange" on the subject and refused to furnish any details about the memo.

In addition, a State Department official said he didn't know if any decisions "are even close to being made."

But, adding to the speculation, the State Department source said, "We are talking about separate things separately."

If the State Department has abandoned its desire of linking the upcoming pipeline talks to an elaborate, long-term energy policy between the countries, the decision will be advantageous for a consortium of 27 U.S. and Canadian energy companies which have proposed the $6 billion project.

Believed to be the costliest project ever financed by private enterprise, the envisioned pipeline will carry natural gas from Alaska's North Slope to "the lower 48" via a trans-Canadian route.

PROVIDES DIRECT LINK

It would provide the midwest and northeast sections of the country with a direct link to the Alaskan natural gas fields which holds about 10 per cent of the nation's proven gas reserves, an estimated 26 to 30 trillion cubic feet.

Before the project can get started, it must survive an extremely complicated procedure before the first earth can be turned.

In addition to an overall agreement between the State Department and Canada's Ministry of External Affairs, the project must also win certification and right-of-way permits from several other U.S. and Canadian agencies.

The consortium—known in the U.S. as Alaskan Arctic Gas Pipeline Co. and in Canada as Canadian Arctic Gas Pipeline Ltd.—has already filed the necessary permit applications.

In the U.S., Alaskan Arctic Gas must obtain certification from the Federal Power Commission (FPC) and right-of-way from the U.S. Interior Department. The company's Canadian counterpart must win similar permits from Canada's National Energy Board and the Department of Indian Affairs and Northern Development (DIAND).

SECOND PIPELINE

While Arctic Gas has begun the arduous task of winning the approval of half a dozen U.S. and Canadian agencies after spending $50 million on planning, tests and environmental studies, another company—El Paso Natural Gas—is preparing its own permit applications to construct a pipeline along a

route similar to the trans-Alaska Alyeska Oil Pipeline now under construction.

El Paso wants to build its pipeline from the North Slope to the Southern Alaskan Coast and transport the natural gas in liquefied form to the West Coast.

"The competition (between El Paso and Arctic Gas) is big potatoes," commented a State Department spokesman.

Interest in the upcoming negotiations has been keen on Capitol Hill where supporters of the trans-Canada route are eager to avoid the type of debate which ensued last year over the Trans-Alaska Pipeline Bill.

CAUSE FOR WORRY

While most lawmakers assume that the natural gas pipeline will follow the route which Congress rejected for the oil pipeline, the emergence of a trans-Alaska proposal has given some cause for worry.

A bi-partisan group of 25 senators led by Democrat Birch Bayh of Indiana and Republican Robert Griffin of Michigan are working on the Interior Department side of the coin, and a group of midwestern House members are concentrating their efforts on the FPC.

As an initial step, the Senate group has been trying to pin down Interior Secretary Roger Morton's position on the proposed natural gas pipeline route. He originally endorsed the trans-Canada route but later became neutral at the request of President Nixon, who asked that both proposals be studied.

ECONOMIC FEASIBILITY

Last week, while visiting in Anchorage, Secretary Morton admitted he initially endorsed the trans-Canada route but indications of the economic feasibility of conveying gas by tanker from Southern Alaska have caused him to give "serious consideration" to a proposed trans-Alaska route.

Meanwhile, the House group led by Democrat Les Aspin of Wisconsin and Republican John Anderson of Illinois have been granted permission to intervene in hearings before the FPC on behalf of Arctic Gas.

So far, the State Department's apparent decision to negotiate the single pipeline issue has been the most significant development.

A Capitol Hill aide and a veteran Washington observer of the pipeline industry reacted to the speculation with identical words.

"These negotiations have been El Paso's ace in the hole," both said.

The Capitol Hill aide explained that El Paso has been hoping that the upcoming negotiations would involve every conceivable energy issue, thus making the talks extremely complicated and an agreement unlikely.

"Without an overall agreement between the two governments," he said, "Arctic Gas would be left without any chance to construct, and El Paso would be left free to pursue its own project."

MASSIVE TAX INJUSTICE

Mr. TUNNEY. Mr. President, as many Senators now know, the Internal Revenue Service recently initiated a tax collection campaign against thousands of recent college graduates. Under Revenue Ruling 73–256 issued in June 1973, the forgiven portion of educational loans was henceforth and retroactively declared to be income subject to taxation. An estimated 150,000 students have so far been billed for back taxes in amounts as high as $1,000 a year, for up to 3 years.

Mr. President, the IRS made no special effort to inform students of this ruling and most loans were assumed with the implicit understanding that the forgiven portion was nontaxable. As a result, the first a recent graduate learns of a hugh tax liability is the day the postman arrives with the bill. Adding insult to injury, the recent graduate may be charged interest on back taxes he or she did not even know were owed.

On June 20 of this year, I introduced S. 3680, a bill to correct the massive tax injustice caused by the IRS decision. Under the terms of my bill, the portion of student loans forgiven because certain loan conditions were met after graduation may not be deemed taxable income, either now, retroactively, or in the future. S. 3680 has already received the support of many educational organizations including the National Education Association, the American Association of Junior Colleges and Community Colleges, the American Association of Medical Colleges, the Association of Jesuit Colleges and Universities, American Nurses Association, the American Federation of Teachers, and the American Society of Hospital Pharmacists.

As of this date Senators ERVIN, HATFIELD, HELMS, HUMPHREY, PELL, RANDOLPH, and STEVENSON have joined me in cosponsoring S. 3680. In the other body, Congressman IKE ANDREWS has introduced similar legislation which has been cosponsored by 121 Members of the House. Congressman ANDREWS has been assured that the Committee on Ways and Means will consider his bill at an early executive session.

I am most hopeful the Committee on Finance will give S. 3680 early and favorable consideration and I invite other Members of the Senate to join me in sponsoring this measure to terminate a wholely unjust, bureaucratic assault on American college students.

Mr. President, I ask unanimous consent that the text of S. 3680 be printed in the RECORD.

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

S. 3680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 117 of the Internal Revenue Code of 1954 (relating to scholarship and fellowship grants) is amended by adding at the end thereof the following new subsection:

"(c) CANCELLATIONS OF STUDENT LOANS.—

"(1) IN GENERAL.—In the case of an individual, no amount shall be included in gross income by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions or certain geographical areas or for certain classes of employers.

"(2) STUDENT LOAN.—For purposes of this subsection, the term 'student loan' means any loan to an individual to assist the individual in attending an educational institution (as defined in section 151(e)(4))—

"(A) by the United States, or an instrumentality or agency thereof, or a State, a territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia, or

"(B) by any educational institution (as defined in section 151(e)(4)) pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a State, a territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia under which the funds from which the loan was made were provided to such educational institution.".

SEC. 2. The amendment made by the first section shall apply with respect to all taxable years.

CHARITIES: WHICH ONES ARE WORTH GIVING TO?

Mr. HARTKE. Mr. President, Americans contribute more than $60 million a day to charitable organizations. Each of us is accustomed to hearing the pleas of these organizations on television and radio and to having our neighbors knock on our doors to collect money. Each of these appeals present us with a cause which needs our money, and we are hard put to turn our backs on others who are less fortunate.

Unfortunately, Mr. President, some of the charitable organizations making these appeals may not be worthy recipients. I refer to those organizations which spend excessive amounts of money on fundraising or executives' salaries or which fail to open their activities to public inspection. They are a small minority, but important nevertheless.

As chairman of the Subcommittee on Foundations, I intend to hold hearings on this subject later this year and invite any of my colleagues with an interest in the activities of charitable organizations to give me their thoughts and to appear before the subcommittee if they so desire.

Mr. President, I ask unanimous consent that the text of an article which appeared in the February 1974, issue of Reader's Digest be printed in the RECORD.

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

CHARITIES: WHICH ONES ARE WORTH GIVING TO?

(By Carl Bakal)

(In contributing $60 million a day to charities now, Americans are setting an all-time record for generosity—and for gullibility. Here are some tips for distinguishing the worthy causes from the unworthy.)

During a recent five-month period, one Long Island businesman found in his mailbox 93 requests for money from 54 different charities. Many of the solicitations were accompanied by "gift" items such as key chains, cookie cutters and miniature auto-license tags.

In addition, several times a week he answered his telephone or his doorbell to find someone soliciting money for some supposedly worthy cause. "In January it was the March of Dimes and the cerebral-palsy people, and in February the heart campaign and the blind," recalls the businessman. "Then in March the Red Cross, in April Easter Seals and cancer, and in May the Arthritis Foundation, with a lot of other diseases and causes in between."

Most people get this almost daily appeal for funds. And each one raises the question: how do you distinguish between the worthy and the unworthy organizations? It is an important question, because in 1972 alone Americans gave charities $60 million a day, or a total of nearly $22 billion, establishing an all-time record for generosity—and gullibility.

A classic example of gullibility was demonstrated by a wag in Memphis, who solicited for the "Fund for the Widow of the Unknown Soldier." In just a few minutes he collected

$11. (He promptly returned it to the red-faced givers.) In New York City a phony rabbi raised $75,000 for a nonexistent synagogue and school in Israel before he was arrested. In Westchester County, New York, a so-called "blind shop" sold $2,000 worth of concert tickets for a benefit in its behalf before authorities discovered the shop to be a store that sold venetian blinds.

Other charities, though legitimate enough, often receive little of the money contributed in a fund-raising campaign.

Several years ago in Washington, D.C., for example, the United Police Fund was launched "to aid the widows and orphans of slain policemen." In less than a year the fund, with the aid of an emotional solicitation letter signed by a Congressman, raised $140,-121. Of this, the "widows and orphans" received $18,000. The rest went for "expenses, fees and a salaried employe."

Not one penny of the $218,000 reportedly raised on a telethon in 1972 for the Foundation for Research and Education in Sickle Cell Disease has gone to that organization. The telethon promoters claimed that their expenses had exceeded donations by $78,000, but the Sickle Cell Foundation has charged that it was never provided with complete and accurate records.

It is not so much such marginal operations or outright frauds that gobble up most of America's charity dollars, however, as it is highly respected organizations. Many are efficiently run and dedicated to a real social need. But others, although equally sincere in purpose, are badly run or directed toward an outmoded or not particularly urgent need. It is not always easy to distinguish between the two. And reputation alone is no surefire guide to wise giving.

Most people, for example, know of the National Tuberculosis and Respiratory Disease Association (recently renamed the American Lung Association), a pioneer in the health-agency field and famous for its Christmas seals. The Association deserves ample credit for its role in helping reduce the prevalence and effects of active tuberculosis. In recent years the Association has added other lung diseases such as chronic bronchitis and emphysema to its program. But critics point out that although chronic bronchitis and emphysema are serious and prevalent, they cause significantly fewer deaths than several other diseases being fought with inadequate funds. They note, too, that assets of the Association and its chapters now exceed $55 million. Over 90 percent of these funds, most of which go for operating expenses, are in the hands of local chapters, not all of which, say the critics, are spending their funds to the best advantage.

A far greater offender is Disabled American Veterans, which keeps building its assets at the rate of over $3 million a year. Its accumulated excess funds in 1972 totaled nearly $18 million. Only 16 percent of the $22 million DAV received was spent on its major function of counseling veterans.

Another charity that may have more money than it knows what to do with is Father Flanagan's Boys' Home, internationally renowned as Boys Town. In 1972 Omaha's Sun Newspapers revealed that although Boys Town had net assets of $191 million, primarily in cash and securities, it continued to receive some $25 million a year in public donations and investment income—about four times as much as it needed to take care of its declining population of some 600 boys. Despite this, Boys Town last year sent out millions of poverty-pitched letters implying that it was in desperate financial straits. The organization's 1973 mailing was termed a "progress report" and didn't specifically ask for money; but it did close with the phrase "with heartfelt gratitude and thanks." Then, at Christmastime, it made an appeal for funds to held finance a new institute to be devoted to learning and communication for the boys.

Few people can fail to be moved by ads showing a starving orphan overseas, and asking help for the child. But how many would be so moved if they knew that in at least two agencies only a little more than half the money received actually goes for the support of the child. Fund-raising and administrative expenses, including cost of photographs and translations involved in correspondence with "your" child, take the rest.

And so it goes: the New York City division of the American Cancer Society has been criticized for offering help to "medically indigent cancer patients," when all too frequently its "help" is nothing more than referral to community agencies (which, in turn, are often unable to help); or the local chapter of the Easter Seal Society is refused a solicitation permit by the city of New Orleans because its fund-raising program is considered excessively expensive. How, then, is it possible to judge whether you are giving wisely?

Melvin Van de Workeen, executive director of the 53-year-old National Information Bureau (NIB), a private non-profit agency that evaluates charities, suggests that before you give to any organization you get the answers to these questions:

1. Does the organization operate with reasonable efficiency and use ethical methods of fund-raising, publicity and promotion? Never, says NIB, contribute in response to telephone calls from strangers until after you have received full details by mail. Say "no" to any organization that mails you an unordered item of merchandise, such as name-and-address stickers, key rings, medallions, neckties, greeting cards or similar "gifts." (In fact, don't even acknowledge or return the gift.) This method of fund-raising, intended to appeal to your sense of guilt, often costs more than 90 cents of every dollar contributed. In contrast, the fund-raising and administrative costs of most health-agency members of the National Health Council range between 20 and 30 percent. (Exceptions: American Lung Association, 35; Epilepsy Foundation of America, 47.)*

2. Does the organization fill a legitimate need, with no avoidable duplication of the work of other sound organizations? Many organizations pass the fund-raising-cost test yet have completely ineffective programs and accomplish very little.

3. Is the organization governed by an active, responsible board, no member of which receives any compensation from the organization? Remember, a letterhead filled with big names doesn't necessarily mean much. Although many prominent people serve on charity boards with dedication, others accept board membership indiscriminately and may even be unaware of the true nature of the enterprise to which they are lending their names. Among those listed on the "honorary advisory board" of the American Kidney Fund (not to be confused with the National Kidney Foundation) are four Senators, four Congressmen, former New York City Mayor John V. Lindsay and entertainer Barbra Streisand. This fund asks for help to "pay for more kidney machines and more treatment for people with kidney failure." However, only five cents of every dollar raised has gone directly to help in this way.

4. Does the organization make available to anyone requesting them a budget and an annual report that includes an audit prepared by an independent certified public accountant? If it doesn't, be suspicious of it. Further, remember that even detailed financial data don't necessarily show that a charity is efficiently run. With no generally required uniform accounting procedures, annual reports often mask fund-raising costs under such euphemisms as education, public information, administration or program services.

Here's what I discovered, for example, when I investigated the Tusla-based David Livingstone Missionary Foundation—the missionary arm of evangelist Billy James Hargis' ultra-conservative Christian Crusade Church of Tulsa, Okla. The foundation was formed in 1970 to help orphans, lepers, disaster victims and other unfortunates in various parts of the world. I wanted to know how much of the million dollars or more the foundation collects every year, mostly through mail solicitations, actually goes to the unfortunates.

When I visited Hargis last March he said he would tell me anything I wanted to know about the foundation's finances and handed me an unaudited report for the first ten months of 1972, which showed mail contributions of $1,794,000 and expenditures abroad of $702,000 on mission work. Hargis also gave me a sheet of paper with a breakdown of expenditures for the last ten months of 1972 in each country: $243,000 in India, $217,000 in Korea, $130,000 in the Philippines and so on.

But how was the money spent in each country? Hargis and the foundation's president, Jess Pedigo, gave me only vague data, none of it substantiated by any records. Pedigo told me that the foundation had made "an initial outlay of $4000" for an orphanage in Nasik, 130 miles south of Bombay, and planned to purchase a dozen acres of farmland there. The foundation's missionary in Nasik said he knew nothing about the orphanage. A check for $7000 that Pedigo told me had gone to Hong Kong to be used to "establish a church" actually went for a down payment on an apartment there for the foundation's missionary who, I learned, said there were no present plans to establish a church. All this, despite Pedigo's assurance that "all our work can endure the most careful scrutiny and come out with flying colors."

What protection against misinformation, then, do you have? Twenty-three states and the District of Columbia and several dozen cities do have laws regulating charities, but most of these are ineffectual, unenforceable or unenforced. There are no federal regulations, but Rep. Lionel Van Deerlin of California has sponsored a federal "truth-in-giving" proposal, which would require all organizations soliciting contributions through the mail to clearly disclose on the solicitation itself just how the contributions are to be used, and a detailed breakdown of fund-raising costs. Recently, the American Institute of Certified Public Accountants approved for its membership an audit guide establishing specific criteria, including full disclosure of all fund-raising costs. After June 30, 1974, if a charity refuses to accept these standards, it will not be given a "clean" audit statement by any certified public accountant.

On the theory that something is better than nothing, you may at times decide to give money to that starving orphan or agency for the handicapped anyway, even after you learn that only a small portion of your contribution will reach those in need. For if you do not give, the people in need may get no help at all.

In making your decision, however, remember: Money unwisely given may perpetuate

*Your local Better Business Bureau— or the Council of Better Business Bureaus, 1150 17th Street, NW., Washington, D.C. 20036— will furnish free reports on many charities. And for an annual membership fee of $15, the National Information Bureau, 305 East 45th Street, New York, N.Y. 10017, will send you reports on any of some 500 national charity organiaztion (but not religious, fraternal or political organizations), indicating whether or not the charity meets NIB's standards.

an unworthy charity or even an outright racket. Money wisely given will not only reach those who need it most, but will also discourage incompetent or unethical charities or encourage them to mend their ways.

TRIBUTE TO ADM. CHESTER R. BENDER, RETIRING COMMANDANT, U.S. COAST GUARD

Mr. THURMOND. Mr. President, Adm. Chester R. Bender, commandant of the U.S. Coast Guard, concluded an outstanding career when he retired June 30, 1974, after 4 years as leader of the Coast Guard.

Under his leadership the Coast Guard made significant progress in fulfilling its important mission as an element of national defense and in providing for improved marine safety.

In particular, Admiral Bender showed outstanding leadership in spearheading significant breakthroughs in the fields of marine safety and environmental protection.

He successfully directed Coast Guard participation in the Vietnam conflict by supervising the training of South Vietnamese personnel and directing the transfer of Coast Guard equipment to that country. He also aided Thailand officials in a similar manner.

Of particular importance, Admiral Bender was instrumental in bringing about new navigation systems in this country, especially on the west coast.

Mr. President, Admiral Bender has distinguished himself through his long career in the Coast Guard which began with his graduation from the Coast Guard Academy in 1936.

In closing, Mr. President, I ask unanimous consent that a biography of Admiral Bender's record be printed in the RECORD at the conclusion of my remarks.

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

BIOGRAPHICAL SKETCH: ADM. CHESTER R. BENDER, U.S. COAST GUARD, COMMANDANT, 1970–74

Chester R. Bender was born March 19, 1914, at Burnsville, West Virginia, the son of John I. and Inez (Harbert) Bender. He received elementary and high school education in Burnsville and Plant City, Florida, where he moved with his family in 1925.

He was appointed a cadet and entered the Coast Guard Academy in New London, Connecticut in 1932. He was a member of the Academy boxing squad for two years. During his first class (senior) year, he was gun captain and served as humor editor of "Tide Rips", the cadet yearbook. On June 8, 1936, he became the first Floridian to graduate from the Coast Guard Academy when he received his bachelor of science degree and commission as ensign.

Ensign Bender's initial duty was as a line officer aboard the cutters Mendota and Bibb, both on Atlantic patrol. In 1938, he was transferred to the cutter Ossipee, operating in the Great Lakes. During this tour he met his future bride, Annamarie Ranson of Sault Ste. Marie, Michigan. They were married September 1, 1939.

He was selected for flight training in 1939, and in June of that year began training at the U.S. Naval Air Station at Pensacola, Fla. A year later he received his aviator's wings and was assigned to flight duty at the Coast Guard Air Station at Elizabeth City, N.C. With the start of World War II, Lieutenant Bender flew anti-submarine patrols out of Elizabeth City.

Lieutenant Commander Bender served as commander of an air-sea rescue squadron at the Coast Guard Air Station at San Diego, Calif., from June 1943 to December 1944. He was promoted to the rank of Commander half-way through that tour of duty. Commander Bender then served as air-sea rescue advisor and liaison officer with the Far East Air Force Headquarters in the Philippines for the remainder of the war. He was awarded the Bronze Star Medal for this service.

In December 1945, he was assigned to Coast Guard Headquarters, Washington, D.C. as executive officer of the Air-Sea Rescue Agency. The following September he became pilot and personal aide to the Commandant of the Coast Guard.

In June 1950, Commander Bender became executive officer of the Coast Guard Air Station at St. Petersburg, Fla. Three years later he went to Traverse City, Mich. to command the air station there.

He returned to Headquarters in June 1955 to head the War Plans Division. He was promoted to Captain in 1958 and assumed command of the Coast Guard Air Detachment at Barbers Point, Hawaii. The following year, after 20 years in aviation, he returned to sea in command of the 311-foot cutter Bering Strait, operating on ocean station duty out of Honolulu.

In July 1961, he began a one-year assignment as mobilization and readiness officer on the staff of the Western Area Commander in San Francisco, Calif. He then returned to Washington, D.C. as Chief of the Administrative Management Division and later Chief of the Program Analysis Division at Coast Guard Headquarters.

In January 1964, Captain Bender was nominated by the President for flag rank and on July 1 of that year, he was promoted to Rear Admiral. At that time, he took command of the Ninth Coast Guard District headquartered in Cleveland, Ohio. A year later he was assigned as Superintendent of the Coast Guard Academy, relieving Rear Admiral Willard J. Smith, who later became Commandant of the Coast Guard.

During his two years as Superintendent, Admiral Bender continued the Academy's major construction program with Roland Hall Field House, one of the East Coast's most complete and modern athletic facilities nearly completed during his tour. He also established a Coast Guard museum at the Academy, to preserve and display artifacts of the early Coast Guard. Construction is due to begin soon on a building to house these items in New London.

In June 1967, he assumed command of the Twelfth Coast Guard District and Coast Guard Western Area, with offices in San Francisco, Calif. In the former position, he had responsibility for all Coast Guard units in Northern California and most of Utah and Nevada as well as areas in the Pacific. In the other assignment, he was the senior Coast Guard officer in the Pacific and exercised certain operational controls over Coast Guard commands throughout that ocean.

On April 16, 1970, President Richard M. Nixon nominated Chester R. Bender to be Commandant of the Coast Guard with the four-star rank of Admiral. The nomination was confirmed by the Senate on April 30. Admiral Bender relieved Admiral Willard J. Smith as Commandant on June 1, 1970.

Admiral Bender retired as Commandant effective June 1, 1974, after being relieved by Admiral Owen W. Siler, USCG, at formal change-of-command ceremonies held at the Washington Navy Yard, May 31, 1974. The cutters USCGC Eagle and USCGC Ingham were brought in to participate.

AWARDS

In addition to the Bronze Star Medal, Admiral Bender's World War II campaign service medals and ribbons include: American Area; American Defense; Asiatic-Pacific with two bronze stars (ribbon) for participation in the Southern Philippine and Luzon campaigns; Philippine Liberation with two bronze stars; Philippine Presidential Unit Citation; World War II Victory.

Later awards include the National Defense Service Medal. On May 28, 1970, Admiral Bender was presented the Legion of Merit by Secretary of Transportation John A. Volpe in recognition of his services in the last three tours of duty preceding his appointment as Commandant. On October 13, 1972, Admiral Bender received the Distinguished Service Medal from Secretary Volpe for exceptionally meritorious service in his post as Commandant. He was presented a Gold Star in lieu of a Second Distinguished Service Medal by Secretary of Transportation Claude S. Brinegar at change-of-command ceremonies, May 31, 1974.

NATIONAL HEALTH INSURANCE NEEDED NOW

Mr. RIBICOFF. Mr. President, it is long past time for Congress to enact a national health insurance bill now.

There are thousands of Americans suffering from burdensome health costs. They need help and they need it now.

I would like to share with you a story I know about a family from Connecticut. The story is true. I will change the names.

The Smiths of Groton, Conn., are an average family. He works as a designer at General Dynamics-Electric Boat. The Smith's daughter, Linda, suffered from aplastic anemia, a red blood cell deficiency which halts the formation of bone marrow. During the first 2 years of her life, Linda was in Yale-New Haven Hospital and Newington Hospital. Following hospitalization, Linda was treated at outpatient clinics until November of 1972, when she was brought to Yale-New Haven and then to Boston Children's Hospital Medical.

Linda, 5 years old, died in April of 1973. She had the finest possible medical attention. National health insurance would not have helped to save her life.

But her illness left the Smith family with a debt of $28,000 for hospital bills alone. That did not even count doctor bills.

Mr. Smith was not wealthy. He made $260 a week but the bills for months at a time amounted to $200 a day.

The $10,000 major medical insurance coverage the Smith family carried still left him with a debt of over $17,000.

The Smith family was luckier than most. His colleagues at work cared. Since June of 1973, they have collected $7,500 out of their own paychecks to help him pay the health bills.

But he is still deeply in debt and struggling to pay his bills and keep a roof over his family's head.

It is tragic that in a country like this a family can be wiped out by health bills. It does not have to happen. Congress can enact a bill to protect against these large costs, and it can do it now at a price everyone can afford. And it can be implemented quickly.

Mr. Smith has no place to turn. But others will have a place to go for help if we take the steps necessary to protect

every American against health costs which lead to financial disaster.

WATERGATE AND THE CULT OF THE ROBE

Mr. ERVIN. Mr. President, Philip B. Kurland, of the University of Chicago law faculty, and the chief consultant on the Senate Judiciary Subcommittee on Separation of Powers, delivered an address to the Illinois State Bar Association at its 1974 annual meeting in Lake Geneva, Wis., on June 17, 1974, on the subject "Watergate and the Cult of the Robe."

Since Professor Kurland's remarks on that occasion illustrated his usual penetrating insight in respect to a current problem of great magnitude, I ask unanimous consent that a copy of this address be printed in the RECORD.

There being no objection, the address was ordered printed as follows:

WATERGATE AND THE CULT OF THE ROBE

(By Philip B. Kurland)

Assuming that the so-called "keynote" address at a state bar meeting should be concerned with a topic that is both timely and significant, I have chosen as my subject, "Watergate and the Cult of the Robe." Perhaps, in light of the locus of this meeting, I should better have addressed myself to the cult of the disrobed, but my chosen subject affords greater coverage.

The phrase "The Cult of the Robe" is not mine. So far as I can tell, it was invented about 30 years ago by a former member of this association, Judge Jerome N. Frank. His theme then was that the judicial robe was a symbol of significance because it implied "that the past is sacred, and change impious." While I have adopted his phrase, I would give it somewhat different meaning. Like Frank, I am of the view that: "The legislature is, par excellence, the democratic instrument"; that judicial power is basically "anti-democratic." But my objections to the dogma of the cultists is not that which commits them to a belief in conservatism, but rather the dogma which suggests that the judiciary is the omniscient and omnipotent corps to whom the American people should take all their social, economic, and political problems for resolution.

Judge Frank, writing in the aftermath of President Roosevelt's controversy with the "Nine Old Men," found judicial supremacy to be anathema, essentially because it thwarted the effectuation of New Deal programs. The story is well told in Robert H. Jackson's all but forgotten book, *The Struggle for Judicial Supremacy*, a book I recommend to those of you who can't or won't remember the liberals' attack on the Supreme Court in the late 1930s.

It turns out, however, that doctrinaire liberals were not really objecting to the exercise of judicial supremacy so much as they disliked the substance of the decisions that the judiciary was then rendering. The evil they ultimately saw was not the perversion of the Constitution's allocation of governmental power. It remained for conservatives like Learned Hand to continually protest the assumption of more and more authority by what he called "a bevy of Platonic Guardians." The newer liberal creed has not been judicial restraint of the kind they suggested in Roosevelt's first and second terms, but a demand that that branch of government should be empowered to act which was most responsive to their personal desires. And so, for a long time now, certainly since 1954, we are told to be tolerant of an expansive judiciary. Equally, we have been told by these same forces, at least since 1933, that great powers—never mind what the Constitution contemplated—should be vested in the executive branch of the national government.

In more recent days, we have, or should have, become disillusioned with the notion of what has come to be called, especially by those who once created it, "the imperial presidency." We have, or should have, in these days recognized that the basic concept of the American constitutional scheme has been division of power rather than its concentration. My own views, which I have expressed elsewhere, are that the essence of the Watergate mess derives not merely from the expansion of presidential power but rather from the creation of a fourth branch of government called the White House which is, theoretically but not actually, subject to the control of the President. I am talking of those officers in the White House itself and those agencies that have no political responsibility for the vast powers that they exercise, frequently under the guidance of an administrator whose appointment is not even subject to Senate approval. I am speaking of presidential assistants and councillors, of the Office of Management and Budget, the Council of Economic Advisers, of the C.I.A., of the "energy czar," and so on.

We suffer from a government like that of England at the end of the 18th century, where power was concentrated in the hands of the king's advisers, and which called forth the American Revolution. This power must be abated, if we are to remain a constitutional democracy.

We have become, too, as a people, prisoners of a different, non-governmental power. And I would use Learned Hand's words to tell you about it. For here too we are concerned with an organ of control that is also politically irresponsible. Writing at a time when the free world was locked in struggle with the dark powers of Nazi Germany, Fascist Italy, and Imperial Japan, Learned Hand described this other evil in inimitable words that are applicable even today. He said:

"The day has clearly gone forever of societies small enough for their members to have personal acquaintance with each other, and to find their station through the appraisal of those who have any first hand knowledge of them. Publicity is an evil substitute, and the art of publicity is a black art; but it has come to stay; every year adds to its potency and to the finality of its judgments. The hand that rules the press, the radio, the screen and the far-spread magazine, rules the country; whether we like it or not, we must learn to accept it. And yet it is the power of reiterated suggestion and consecrated platitude that at this moment has brought our entire civilization to imminent peril of destruction. The individual is as helpless against it as the child is helpless against the formulas with which he is indoctrinated. Not only is it possible by these means to shape his tastes, his feeling, his desires and his hopes. But it is possible to convert him into a fanatical zealot, ready to torture and to destroy and to suffer mutilation and death for an obscene faith, baseless in fact and morally monstrous. This, the vastest conflict with which mankind has ever been faced, whose outcome still remains undecided, in the end turns upon whether the individual can survive; upon whether the ultimate value shall be this wistful, cloudy, errant You or I, or the Great Beast, Leviathan, that phantom conjured up as an ignis fatuus in our darkness and a scapegoat for our futility."

Although World War II was thought to have been brought to a successful conclusion, the basic question remains, to what degree are individuals to be subordinated to the exercise of total power over them by institutions both within and outside government. The danger of governmental monopoly over power is one that was foreseen by the Founding Fathers who attempted to avoid it by a principled separation of powers. And I speak here not of the phony cries from the White House that would merely protect personal prerogative. I speak rather of the establishment of a federalism, of the division of authority in the national government, first to Congress, second to the executive, and third to the judiciary. And I submit that this ordering by the Constitution's authors was a meaningful one.

We have tended to reject their carefully constructed protections in favor of expediential allocation of authority. We have been bribed to exchange the grant of power for favors received. Our social, political, educational, and economic structures have all suffered from monopolization and, what Brandeis called, "the curse of bigness." And when these monopolies of power have come into the hands of those who are less than beneficent, as they are wont to do, we cry and wring our hands and take no effective steps to reduce that usurped and embezzled authority.

Certainly monopoly may afford a counterbalance for other monopolies. This was the thesis of that statesman of wide reknown, His Excellency, John Kenneth Galbraith. But the danger remains that the monopolies we have tolerated will not act in opposition to each other but will be joined together, that big government, and big labor, and big business, and big news machines will have a joint interest that permits no tolerance for individual freedom or individual tastes.

Thus, there may be irony but no pleasure in the recognition that those who would have manipulated the media to exercise their willful power have become victims of the media. Presidents, like presidential candidates, who may be created by the media, may also be destroyed by them. Those who would understand the evils of Watergate should read not only the transcript of the presidential tapes, but the recently published confessions of Jeb Stuart Magruder who, somewhat ingenuously but all the more honestly for it, describes what life in the White House has been like. For the clear concerns of the executive branch are shown to be image not substance. As elsewhere in our lives, what Judge Hand called "the black art" of "publicity" has become for government not merely a means to an end, but the end itself. It should come as no surprise, although it does to Henry Kissinger, that there might be doubts about the veracity of statements made by what he called "senior governmental officials." The overwhelming evidence of the Watergate affair is that government officials do lie, to the people, to grand juries, to Senate committees, to courts. The primary characteristic of the Nixon administration—not to speak for the moment of those that immediately preceded it—is its asserted right to lie. Nowhere has there been shown an interest in revealing the truth, all efforts have been bent to concealing it. Whatever the merit of the motive behind such actions, it should surprise no "senior governmental official" that his government, at least at home if not in Egypt, totally lacks credibility. The father of Justice Holmes, "the autocrat of the breakfast table," once perceptively noted: "Sin has many tools, but a lie is the handle which fits them all."

Admittedly, in recent days, the media are to be credited with the revelations of wrongdoing by highly placed public officials. At the same time, it should be seen that, as concerned as the media are with affixing blame and punishment on individuals, they have shown no interest in the institutional problems that have been revealed by their exposes. For myself, I think that it matters not so much whether certain White House and Republican party officials go to jail, if we leave available to their successors the authority to abuse the same powers in the same or different ways. We must see that power is limited so that its abuse will be less

significant. Just think how accidental the uncovery of Watergate's effluence has been. If the invaders had not stupidly caused a door to remain open, the guard would never have called the police. If a police unit had not, accidentally, been working overtime in the immediate vicinity, they would have arrived too late. Even the discovery of the presidential tapes was all but accidental. It was Pascal who said: "Had Cleopatra's nose been shorter, the whole history of the world would have been different."

The same kind of abuse of institutional power that characterizes Watergate gives rise to my concerns about the cult of the robe. I think that no good can come from the widespread belief that the judiciary is the ultimate forum for resolution of every major political, economic, or social question that confronts our society. For one thing, experience tells us that such solutions as the judiciary can in fact afford are frequently chimeras. The Court purported to provide the solution for the most endemic problem of American society, the separation of the black and white races. And the Court can take credit for focusing governmental attention on the problem. But to the degree that there have been partial resolutions of the difficulties, they have tended to come from the legislature and the executive rather than the courts. The Court undertook to solve the problem of prosecutorial abuses. But its solutions have not deterred prosecutorial abuses; they have only afforded exoneration for some who would otherwise have been punished for crimes they admittedly committed.

Suppose, however, we had a belief in the effectiveness of the judiciary for solving such basic problems. And I would emphasize that the judiciary's effectiveness in resolving disputes between individuals or between the government and an individual is not doubted, but largely because the other branches of government are prepared to enforce such judicial actions. I would submit, nevertheless, that the effective concentration of power that the worshippers of the robe would accomplish would be as dangerous to our fundamental freedoms as similar concentration in the executive has proved to be. However benevolent the Court may be thought to have been, there can be no assurance of the benevolence of the inheritors of the power acquired by those we admire.

Professor A. A. Berle—one of F.D.R.'s original brain trust—wrote in 1967, "Ultimate legislative power in the United States has come to rest in the Supreme Court of the United States." While he approved the result, he was nevertheless concerned that the Court obviously lacked adequate resources, staff, and machinery to solve the vast problems of social, political, and economic conditions in this country. He could solve this difficulty by affording the Court a group of councillors, much as the 1939 Reorganization Act afforded the President a group of councillors which grew into the fourth branch of national government. And even Berle conceded that: "The will of the most enlightened Court is not the same as the will of the elected representatives of the people, and may cease to be the will of the people itself. Acceptance of its mandates based on respect for the Court is not the same as acceptance of active laws commanding popular assent after political debate."

In short, to make of the Supreme Court the ultimate legislative power in the United States—which is the dogma of the cult of the robe—may lead to impotence on the part of the Court to perform even quintessential function, protection of the individual from the tyrannies of government. Certainly it means destruction of democratic principles.

Yet, it must be admitted, that the members of the cult that now worships judicial power is large. The low esteem in which both of the other branches of the national government are now held is a large factor in making converts to the cult. Lawyers are among them in large numbers. The high priests of the cult are academic lawyers and professorial political scientists. And today, I submit, there is none more certain of the omnicompetence of the judiciary than the judiciary itself, and not least the federal judiciary led by the Supreme Court itself.

I would suggest that the most recent example of the Supreme Court's faith in its own wisdom and power is it's decision to undertake to resolve the Watergate mess. At the behest of Special Prosecutor Jaworski, the Court took the extraordinary step of authorizing him to bypass the Court of Appeals for the District of Columbia so that the Court could quickly decide whether he was entitled to evidence that he wanted from the President in order to prosecute the Watergate coverup defendants. Up to that point, the Court had lacked the opportunity to resolve the fundamental political problems that had bemused and confused the two political branches of the government as well as the people. It leaped at the chance this afforded it like a trout jumping at a carefully cast fly, with possibly the same result.

Why should the Court take this case for expedited hearing and disposition? Certainly the case itself did not call for such display of energy.

The issue afforded it for decision was all but unique. The question whether a prosecutor has the right to compel his superior to produce evidence for his use is not one likely to arise with any frequency. The question is clearly different from the issues of executive privilege that are created where the demand on the executive comes from the legislature or even where the demand eminates from a defendant. Denial of the legislature by the executive is almost commonplace and refusal of defendant's claims for evidentiary matter from the prosecution is not uncommon. But refusal of the executive to supply itself with usable evidence is a rarity. I submit that it cannot be the issue itself that called for such premature certiorari.

Similarly, even if the question is "certworthy," what was the need for such despatch? It could not be that a criminal case demands such immediate trial that a postponement of a few months could not be afforded. I can think of no issue in a criminal case that has been so rushed to judgment except for the *Saboteurs* case at the beginning of World War II and the *Yamashita* case at the close of World War II. And I do not hesitate to suggest that neither of these judgments covered the Court with glory. Nor can we say that some of the Court's more recent escapades in hurried judgments afforded examples of brilliant or even persuasive opinions. Nonetheless, it may be said of the *Pentagon Papers* case and of the *Democratic Convention* case that time was of the essence. And that cannot be said here.

Judgment by deadline is inconsistent with the proper role of the judiciary. Political decisions may be made quickly because they need not be rationally justified. But, as Mr. Justice Frankfurter told us in *Kinsella* v. *Krueger*:

"Time is required not only for the primary task of analyzing in detail the materials on which the Court relies. It is equally required for adequate reflection upon the meaning of these materials and their bearing on the issues now before the Court. Reflection is a slow process. Wisdom, like good wine, requires maturing.

Moreover, the judgments of this Court are collective judgments. They are neither solo performances nor debates between two sides, each of which had its mind quickly made up and then closed. The judgments of this Court presuppose full consideration and reconsideration by all of the reasoned views of each. Without adequate study there cannot be adequate deliberation and discussion. And without these, there cannot be that full interchange of minds which is indispensable to wise decision and its persuasive formulation."

No, there is nothing intrinsic in the case that would warrant such a speed-up of the judicial process. It would have to be matters extrinsic to the case that have caused the Court to leap into the fray. The only explanation of the need for such undeliberate speed is the potential importance of the decision to the impeachment process, which might well be concluded before the Court expressed its opinion, if the Court were to proceed in the ordinary course of business.

Indeed, had the case presented to the Court derived from an attempt to enforce the subpoenas of the House Judiciary Committee, one might have acknowledged the need for speedy resolution. But the fact remains that the House Judiciary Committee has chosen not to enforce its subpoenas through the courts. The only way for the Court to participate in the impeachment processes, then, was by this indirect means. And, it would appear, that such an opportunity was not to be missed. Never mind that few things are quite so clear about the Constitution as the decision of its authors to exclude the Supreme Court from any role in the impeachment processes.

How will the decision in this cause affect the impeachment processes? There are several possibilities. First, although the executive privilege question raised here is very different from that which would be presented by a House or Senate subpoena or that which might derive from Judge Gesell's decision relating to Ehrlichman, the opinion—or more likely the eight opinions—may paint with broad brushes. The subject of executive privilege in the absence of statutory guidelines is *terra incognita*. There are no real precedents. The case will have to be decided on first principles, however short of time the Court may be to frame those principles on the basis of adequate study. And so, a decision here may well prove to be controlling on the obligation of the President to respond to the House subpoenas.

Second, if the Court does order the production of the data here, should the President refuse to obey, he will certainly be faced with the charge of an impeachable offense in refusing compliance with a high court judgment, an offense that is most likely to afford a base for conviction in the Senate. Should he obey the subpoena, the data thus afforded would quickly become evidence in the impeachment process in the House, evidence which might not otherwise have been available to it.

Third, if the Court finds that the President need not comply with Jaworski's subpoena, the conclusion that could quickly be reached is that he has acted lawfully not only with regard to the Jaworski subpoena, but equally so with regard to the demands of the House and Senate. In that event, such Presidential success could very well bring the impeachment proceedings to a screeching halt, however unwarranted the inferences. In short, victory in this battle by either side may well be dispositive of the impeachment processes, although in fact none of the substantive issues in the impeachment case will have been decided by the Court.

It is possible that the Court may say that this conflict between a prosecutor in the executive branch and the head of the executive branch is not mete for judicial review. Depending on how the Court says this, it might leave the question of definition of executive privilege for future delineation by the courts or by the conflicting political branches.

No matter how it decides the case, however, unless the opinion is decided by a unanimous Court, which is a most unlikely possibility when it is on as short a time schedule as it is, the judgment will be viewed as a purely political resolution, not a judicial

one. The Court's credibility will be hurt whatever the decision. And it should be remembered that the only power that the Court can assert is the power of public opinion.

It is not too late, of course, for the Court to dismiss the writ of certiorari as improvidently granted. But then it would deny itself a leading role in the impeachment of a president which, we may be thankful, is a phoenix that rises only once a century.

The perfume of Watergate is the odor of arrogance. It smells no better on the judiciary than on the executive, the legislative, or the media. I can only wish that the Justices of the Supreme Court of the United States were not such ardent adherents of the cult of the robe.

INTERNATIONAL ADOPTION BY UNMARRIED CITIZENS

Mr. HARTKE. Mr. President, I have learned of an outmoded law being religiously adhered to by our Immigration and Naturalization Service to the detriment of unmarried citizens attempting to return to the United States with children they adopted while residing in a foreign country. Under 8 U.S.C. 1101(b)(1)(F) a child adopted by a married U.S. citizen is given immediate relative status upon petition, thereby clearing away the requirements for coming into the United States under an immigrant visa status which may take up to several years.

Mr. President, contemporary considerations of human decency and values live long in the eyes of these observers who witness the justices or injustices within the U.S. social order. The outmoded immigration law has touched my home State of Indiana in a most poignant and peculiar fashion. I received a letter from Mrs. J. Russell Parrish detailing the difficulty her daughter, Dr. Rosemary Messick, is having in bringing with her to the United States her adopted baby.

Many States have changed their adoption laws during the past decade to allow unmarried individuals the right to adopt children. While in the past it was felt only married individuals had the time and opportunity to give love and warmth to unwanted children, we now have provided adoption laws which allow unmarried individuals equal opportunity. I believe those States that have changed their laws are socially conscious of the love unmarried mature adults can give to a child. Yet, our immigration laws in the Federal Government have not progressed as far as many of the adoption laws of the various States.

The case of Dr. Messick is one that requires expediency on the part of the Senate Judiciary Committee and the full Senate. Her assignment with the U.S. Agency for International Development to Brazil expires the 1st of June, and unless we favorably act on House of Representatives bill, H.R. 7555, which has been passed by the House, and is now being considered by the Senate Judiciary Committee, Dr. Messick will be required to either return to the United States to assume her teaching assignment at San Jose State University without her child or remain in Brazil with her child and relinquish her position on the university faculty.

Mr. President, I ask my colleagues of the Senate to favorably express their approval of this important legislation, and expeditiously move this needed reform to conclusion prior to the 1st of June.

I ask unanimous consent to have printed in the RECORD the letter I received from Mrs. J. Russell Parrish, and a letter I have sent to Chairman JAMES O. EASTLAND, of the Committee on the Judiciary.

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

DANVILLE, IND.,
April 15, 1974.

Senator VANCE HARTKE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HARTKE: I have a special request of you.

My daughter Dr. Rosemary G. Messick is in Brazil since June 1972 on a USAID project working in a San Diego State University team. She is working with the Director of Elementary Education in the National Secretariat of Education there. She spent her Peace Corps years 1964–'66 in Brazil. In the summer of '69 she worked on an educational research project there which she used for her Doctoral dissertation. The summer of '61 she worked on the San Diego team also. This June her contract is up; she will return to her position as Associate Professor of Education in the Department of Elementary Education in San Jose State University in California.

Here is her problem for which we are asking your help and your influence. She has recently adopted a Brasilian baby which she wants to bring home with her in June. The H.R. 7555 has passed the House and is in the Judiciary Committee of the Senate. This bill, if passed in the Senate, would make it possible for a single person to bring in an adopted child. If it is not passed she will have to leave it there to come in on an immigration quota.

Will you use your influence to get that bill out of committee and into the Senate for a vote.

We would appreciate it if you would give this matter your attention and your influence.

Yours Sincerely,
Mrs. J. R. (MARY) PARRISH.

U.S. SENATE,
Washington, D.C., May 23, 1974.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN EASTLAND: Recently, a constituent brought to my attention considerations relevant to the passage of a bill, H.R. 7555, presently being considered by your distinguished Committee. I have examined the legislation with care, and would like to express my interest in the bill.

The adoption laws of the various states and of the United States have a long history of protection of the children of this land. In addition, we have provided monies and procedures for funding and maintaining organizations that facilitate the placement of children in the international community in homes in the United States filled with love and understanding.

I believe that we in the Congress should make a concerted effort to encourage rather than discourage the adoption of children by our citizens when their love and care will provide the warmth and gentle touch a child needs. While the pros and cons of adoption by unmarried individuals versus married individuals may weigh heavily upon your decision to report the bill to the Senate for further consideration, I believe an individual willing to make the sacrifice of adoption in a foreign country and provide a home, facilities, transportation, and many other considerations relevant to increasing one's family, will provide the love and warmth a child needs.

I enclose a copy of the letter I received from Mrs. J. Russell Parrish for your further consideration.

With my best wishes and thanks for your attention to this matter, I am

Sincerely,
VANCE HARTKE.

STATE ATTORNEYS GENERAL ENDORSE CONSUMER PROTECTION AGENCY

Mr. PERCY. Mr. President, at its 68th annual meeting in Coeur d'Alene, Idaho, on June 26, 1974, the National Association of Attorneys General passed a resolution urging the 93d Congress to enact legislation creating a Federal Consumer Protection Agency.

With this action, the attorneys general join other groups of experts in law and government in recognizing the need for a CPA. The American Bar Association, American Trial Lawyers, Association of the Bar of the City of New York, Chicago Council of Lawyers, Administrative Conference of the United States, and 31 State Governors have already expressed strong support. The attorneys general, as well as members of these other organizations, have become eminently aware of deficiences in consumer protection. These deficiencies are repeatedly encountered by them in the daily discharge of their responsibilities.

The resolution also endorses Federal grants-in-aid to strengthen State and local consumer programs. However, the grants-in-aid sections of the Senate bill were deleted in connection with discussions the sponsors of this legislation conducted with administration representatives.

The National Association of Attorneys General also endorsed a resolution affirming that "consumer law will be served best if primary enforcement responsibility remains entrusted with the attorneys general for the States." Consistent with this view, the Consumer Protection Agency proposed in both the House and Senate bills has no regulatory or enforcement power. It cannot grant or deny rates, routes, applications, or licenses. It cannot penalize or reward.

I am particularly pleased to point out to my colleagues the distinguished record that the attorney general of Illinois Hon. William Scott, has made in the field of consumer protection and I welcome his support of legislation to create a Federal Consumer Protection Agency.

Mr. President, because I believe that the State attorneys general are so uniquely qualified to speak out on consumer protection needs, I ask unanimous consent that the resolutions passed by their national association be printed in the RECORD.

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

RESOLUTION—CONCERNING PRIMARY CONSUMER ENFORCEMENT RESPONSIBILITY

Whereas, the Attorneys General of the individual states of the United States of America are in the forefront in the vital area of consumer law enforcement; and

Whereas, the experience and the cooperative efforts of the National Association of Attorneys General in state-to-state, state-to-federal, and state-to-local communications have resulted in authoritative support for up-

grading our legislative, investigative, and enforcement procedures; and

Whereas, any diminution of the enforcement authority of state Attorneys General can only result in fragmentation and dilution of efforts to protect the consumer; and

Therefore, the National Association of Attorneys General meeting at Coeur d'Alene, Idaho, on this 26th day of June, 1974, resolves that while the Attorneys General of the States do welcome the corporation and need the support of all consumer advocate agencies—city, county, regional, and federal, the Association reemphasizes its long standing commitment to the principle that consumer law will be serve best if primary enforcement responsibility remains entrusted with the Attorney General for the States.

RESOLUTION—CONCERNING FEDERAL CONSUMER ADVOCACY

Whereas, the National Association of Attorneys General, whose members have provided leadership for consumer protection law enforcement in their respective States, wholeheartedly support the creation of an independent and effective Consumer Protection Agency to afford consumer advocacy at the Federal level; and

Whereas, it is the Association's firm belief that the consumer should be afforded adequate protection through the coordinated efforts of local, state and federal enforcement agencies; and

Whereas, this goal can best be achieved through insuring adequate funding to strengthen each agency's ability to respond quickly to consumer needs,

Therefore, be it resolved, that the National Association of Attorneys General urge the United States Congress to pass legislation which establishes an independent and effective Federal Consumer Protection Agency to afford consumer advocacy involving only interstate transactions and designed to strengthen State and local consumer programs through Federal grants-in-aid, and which would recognize the necessity for maintaining effective control of our consumer protection laws on a state and local level.

Signed this the 26th day of June, 1974 at the Annual Meeting of the National Association of Attorneys General at Coeur d'Alene, Idaho.

CONGRESS MUST REVIEW NUCLEAR COOPERATION AGREEMENTS

Mr. HUMPHREY. Mr. President, President Nixon has announced his intention to enter into cooperative nuclear power agreements with Egypt and Israel. The legislation passed yesterday by the Senate, S. 3698, to amend the Atomic Energy Act, would enable Congress to play a responsible role in assuring that such agreements would contribute to the peaceful development of these two countries—and that they would not increase the likelihood of an even more devastating conflict between them than has already occurred.

We must have no illusions about the danger of introducing significant nuclear power into this volatile part of the world. We certainly cannot assume yet that the peace between Israel and Egypt is a secure one. We have seen in the case of India that assistance in the development of nuclear power for exclusively peaceful purposes can be used to develop a military nuclear capacity. Any agreement for nuclear cooperation with Israel and Egypt must be carefully reviewed to assure that under no circumstances will the technology and materials provided be used for military purposes.

Before the United States enters into any agreement on the development of nuclear power for peaceful purposes in the Middle East, the following points must be carefully considered:

Nuclear power is being used increasingly as other forms of energy become more scarce and more costly. These and other developing countries might well receive assistance in building nuclear plants from other countries that possess this technology. The United States has a special interest in seeing that nuclear technology in the Middle East is used exclusively for peaceful economic development. And it may be that the best way of assuring this is for us to provide the technology ourselves with adequate safeguards for its use.

It could be, however, that no safeguards are adequate to assure that the nuclear capacity we supply to the Middle East will never be used for military purposes. The situation there is still unstable and unpredictable. The governments with which these agreements are negotiated will not necessarily always be the governments in control of the technology provided. Nations may make promises when peace is at hand that they cannot keep when their security is being threatened. Those who advocate these agreements must provide assurances that in every possible contingency the safeguards provided are adequate.

On the other hand, it may be that we could accomplish the objective of assisting in energy development with less risk by entering into agreements with Israel and Egypt to develop other forms of energy instead. Israel is already making use of solar energy. We might consider entering into a joint effort with both countries to research and develop this form of energy. Hydroelectric energy might also be more fully developed in this area.

Those who advocate these agreements might not have considered fully the risks involved. They might well be overly optimistic about the possibility of a successful, permanent peace settlement in the Middle East. Or they might be so eager to win the friendship of Egypt while maintaining that of Israel that they have not given thorough and sober consideration to the implications of their promises.

Those who fear the possible outcome of nuclear cooperation agreements with Israel and Egypt might be overly cautious. The safeguards in our nuclear cooperation agreements so far have been adequate—more adequate than those in similar agreements made by other countries.

We must explore as fully as possible all the reasons for and all the implications of entering into nuclear power agreements with Egypt and Israel. It would be irresponsible indeed for Congress to decide in advance of these agreements that we will take no responsibility for them, that we do not want to ask the difficult questions about such a potentially significant commitment.

Mr. President, the decision by President Nixon to offer both Egypt and Israel American nuclear technology for peaceful uses has raised the issue of continued proliferation of nuclear weapons. We are faced in the coming years with the fact that a number of countries will be able to produce nuclear devices after having embarked on a program of peaceful nuclear development. It is known that many nations who profess to want nuclear reactors only for energy generation are seriously contemplating the development of atomic weapons. I am truly alarmed that the new international status symbol seems to be an atomic bomb.

Decisions to provide another nation with nuclear technology are of such a serious nature and have such a tremendous impact on the peace and stability of the world that the Congress must have a role to play in this decision-making process. I withhold judgment on the President's recent decision to provide nuclear technology to Egypt and Israel until such time that I can be assured that we are not encouraging the further proliferation of nuclear weapons in the Middle East.

COYOTES AND THE M–44

Mr. CHURCH. Mr. President, the Department of the Interior recently announced a decision to authorize emergency use of sodium cyanide for killing coyotes in selected areas of the country on both public and private lands.

In exercising his authority to use the emergency provisions of the Presidential Executive order of February 1972 which banned the use of all toxicants on Federal lands in predator control, Secretary Morton took a step which many Idaho farmers and sheepmen have advised me is greatly needed. Since the President's order banning the use of toxicants, my concern has been that effective alternatives to chemical poisons be available to livestock operators in Idaho. As the Secretary of the Interior indicates in a recent news release:

> Stepped up efforts with traps and other mechanical control methods have been underway since 1972, but field surveys indicate that this spring and summer may witness a sizable increase in coyotes in certain areas.

I ask unanimous consent that a news release describing the new procedures for use of the M–44 cyanide ejector be printed at this point in the RECORD.

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

CYANIDE AND COYOTE: BEHIND THE HEADLINES

Secretary of the Interior Rogers C. B. Morton said today that his recent decision authorizing emergency use of sodium cyanide for killing coyotes in selected areas of the country underscores the tough environmental decisions natural resource managers must make.

"We are trying to balance environmental goals wtih economic goals. The fact that reasonable men can agree on such efforts strengthens the entire environmental movement," Morton said.

The Secretary decided on May 30 to exercise the emergency provisions of the Presidential Executive Order of February 1972 which banned the use of all toxicants on Federal lands in predator control.

"Cyanide is not as frightening as it may seem, because it is one poison that does not linger in the environment," Morton said. "As

a matter of fact, it breaks down into a harmless chemical. Moreover, the device it is used in—the M–44 cyanide ejector—is selective and is a humane weapon for use against the coyote, as death is instantaneous."

The coyote issue bristles with fact and fancy, truth and half-truth, and emotions run both hot and cold. Must coyotes be killed? To what extent do they prey on livestock? Does the coyote face extinction because of the organized campaign against it? What methods are used? Will they harm the environment? These and other related questions deserve answers.

The problem centers in the 17 Western States where livestock raising is a leading element of the economy with close to 60 million cattle, about 12 million sheep, and just under 2 million goats grazing in a given year. All of these animals are targets for coyotes, but the major impact of predation is felt in sheep and goat flocks, which are easier prey for the coyote.

The problem of controlling coyote losses assumes a more meaningful dimension when the wide open spaces involved are considered. Only one-third of the 1,000-plus counties in the 17 Western States have over five sheep grazing per square mile. Another third graze only from one to five sheep per square mile, and the remaining counties have less than one sheep grazing per square mile.

As to losses of sheep from coyotes, there are as many sets of figures as there are parties to the dispute. Moreover, there are an equal number of criteria for measuring losses. One source's survey in 1972 showed the average percentage of total ewe losses caused by coyotes to be 7.2 and the average percentage of total lamb losses caused by coyotes to be 11.5. Another survey showed an overall average percentage estimate of 5.3 predator loss to the total sheep inventory. Still another shows losses to predators at 48 percent of all losses. A fourth study reported predator losses ranging from 5 percent to 25 percent of total losses.

Obviously, more data are needed, and field studies are continuing to get a better handle on what is happening in predator-prey relationships. The level or degree of predation may vary from ranch to ranch depending, for example, on whether the ranchlands are open grassy plains, heavy brush areas, high meadows, or steep terrain. Weather also has a major influence in some situations. A general view held by the U.S. Fish and Wildlife Service, used smply to portray the dimension of the problem throughout the West, holds that predator losses appear to range from 1 percent to 4 percent of the total flock. This suggests that as many as 500 thousand sheep may be lost to coyotes each year in the 17 Western States.

The coyote, it's been said, will howl atop the grave of the last man. It faces no danger whatsoever of extinction in spite of man's efforts to control its numbers. Not only is it expanding numerically—an index from six Northwestern States showed a 32 percent higher coyote breeding population in 1972 over 1971—but it also is expanding its range from the Plains States through the highly populated Midwest and on to the Virginias. Pennsylvania, New York, and the New England States. It is tougher and smarter than its cousin the wolf, which couldn't adapt to man's presence. One brush with a trap and a coyote is "trap-wise." It can live in sight of man, yet evade him.

A strong factor in its hardiness is its ability to eat almost anything—livestock, rabbits, snakes, insects, fruits and vegetables, even cactus. Its populations rise and fall in the Southwest and elsewhere as its food supply fluctuates. If the rabbit population experiences a dieoff, the coyote numbers the next year will be less, but never enough to endanger their survival, for the hunger-driven coyote will grub out an existence with any other available food source.

Coyotes prey on young sheep, cattle, and goats more than on the adults. In most Western States the majority of livestock give birth in the spring, which coincides with the coyote whelping period when the coyotes must provide food for their young and readily do so by preying on lambs. Coyotes and livestock share the same range for the same reasons—food, water, and shelter. Coyotes are most active at night and into the early morning, returning to their dens in daylight and not resuming the hunt until sundown.

As a rule coyotes do not mate for life, but some pairs may remain together for a number of years. There is evidence the female may breed when she is one year old. The breeding season is from February to March and the gestation period is 60 to 63 days. Females have been known to deliver as many as 17 to 19 young, although 5 to 7 is the usual litter.

Federal coyote control efforts have been underway since 1916. Prior to the early 1940's the major control techniques were trapping, hunting, denning—which is locating and digging out dens in the spring when pups are small—and the use of strychine baits.

The "coyote-getter," a cartridge-powered cyanide gun, was introduced in the early 1940's and put to widespread use. Thallium sulfate and a chemical known as 1080 appeared in the late 1940's, but the use of thallium was soon abandoned because of its high toxicity. Cyanide and 1080 remained in use until 1972 when the use of all poisons was banned by Executive Order because of the potential for environmental harm by some of the chemicals in use.

The Executive Order (11643) banned the use of chemical toxicants for predator control in all Federal programs and on Federal lands except in emergency situations. Stepped up efforts with traps and other mechanical control methods have been underway since 1972, but field surveys indicate that this spring and summer may witness a sizeable increase in coyotes in certain areas.

In areas where field surveys indicate increased levels of coyote depredations and where the use of nontoxic control methods has proven ineffective because of factors such as topography and vegetation, the M–44 cyanide ejector device will be selectively reintroduced this spring and summer under the emergency provision of the Executive Order.

The M–44 is a spring-loaded cyanide ejecting tube placed in the ground. Death occurs almost instantly when a coyote, tugging at a scented bait, triggers a puff of cyanide into his mouth. When used professionally, it is safe and selective. There is little hazard to human beings. The toxicant either decomposes or is metabolized rapidly. It does not persist in the environment or enter the food chain. Areas where these devices are used will be clearly marked with warning signs.

The Federal agencies involved have jointly developed new procedures to permit the use of the M–44 in the emergency period. Under the new procedure a rancher, land user, or land administrator, when faced with losses that cannot be avoided by the usual methods, may request emergency consideration from Regional Directors of the Fish and Wildlife Service. The request for emergency action will be immediately appraised and documented in the field by Fish and Wildlife Service personnel. An authorization to provide relief will be issued by a Fish and Wildlife Service Regional Director if it is within the guidelines approved by the Federal agencies, and if it is determined that a true emergency situation exists and that other methods are not applicable. His decision will be relayed immediately to the Fish and Wildlife Service field force who will place and control the M–44 devices.

An emergency will be considered to exist for sheep and goat raising areas when it has been found that mechanical control methods have proven futile in controlling stock losses caused by coyotes and there is an unusually high rate of loss to coyotes equal to 2 percent or more of a flock in a seven day period, or when coyote losses project to 8 percent or more of the flock over the growing season despite traditional efforts at control.

The use of the M–44 will conform to all applicable Federal, State, and local laws and regulations. The device will be placed in spots where minimal encounter with humans, pets, and other animals is likely. Signs will be placed in the general vicinity of M–44 use, and each device will be clearly marked with an elevated sign warning people not to handle it.

The M–44 device will be used only by Fish and Wildlife Service supervised employees who have received careful training in its use. These men will carry cyanide antidote kits with them at all times, and spent cases will be collected and burned. Each device will be regularly inspected in the field.

The M–44 will not be used in National Parks and Monuments under any circumstances, nor will it be used in areas where endangered species such as the San Joaquin kit fox or the red wolf might be affected. Maps showing the locations of all endangered species in the West are in the hands of Fish and Wildlife Service field personnel.

Monthly notices of the actual use of the M–44 will be published in the Federal Register, and the Fish and Wildlife Service will cooperate with the Environmental Protection Agency to document its efficiency and use and to collect information on its possible effect on the environment.

Legislation has been introduced and is being considered by Congress which would transfer a portion of the predator control program to the States. In the meantime, the Service is working with State governments in approaches to their assuming a greater responsibility in predator management.

MARY McLEOD BETHUNE

Mr. KENNEDY. Mr. President, I am pleased to take this opportunity to join the thousands of Americans who are paying tribute to the life and works of Mary McLeod Bethune. Because today marks the 99th anniversary of her birth, this is an especially appropriate occasion for all Americans to honor an outstanding citizen whose love for her country was matched only by her faith in gaining social justice for her people.

Mrs. Bethune labored for the equality of black Americans and for women's rights in era when this country was not sensitive to these important social goals. She struggled against rigid social codes and discriminatory regulations and rulings to insure decent educational opportunities for black children, long before Justice Earl Warren led the Supreme Court in its historic ruling to overturn segregation in our Nation's public schools.

Her life was a stirring symbol of the hope and devotion that comes only from a sincere love of mankind. For she was truly a marvelous person whose legacy to all Americans epitomizes respect and consideration.

Mrs. Bethune's memory can be appropriately preserved in the ceremonies scheduled for this week to honor her life. Generations to come will know of her works by the monument memorializing her contributions, unveiled this morning not far from the Capitol, in Lincoln Park.

Members of the National Council of Negro Women deserve every commendation for their untiring efforts to erect this sculpture for the people of our Nation to reflect upon one great American life.

This is truly a significant event in American history and I am honored to join those who are celebrating this important occasion.

KENTUCKY'S COURIER-JOURNAL AND TIMES

Mr. COOK. Mr. President, I would like to call to the attention of my colleagues an article and accompanying item that appeared today in the Wall Street Journal.

They are in regard to the interesting story of the operation of Kentucky's Courier-Journal and Times, a morning and evening newspaper combination, published at Louisville.

While admitting that I have found cause to take exception on occasions with these papers, I am pleased to see them receive this justifiable recognition.

I ask unanimous consent that the articles of July 11 be printed in the RECORD.

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

"MESSRS. CLEAN" LOUISVILLE NEWSPAPERS CHERISH INDEPENDENCE, GUARD IT JEALOUSLY

(By David P. Garino)

LOUISVILLE, Kentucky.—Most publishers turn up in the pages of their own newspapers only in the act of giving or receiving awards or, in tuxedo, attending fancy parties. Not so Barry Bingham Jr., editor and publisher of the Louisville Courier-Journal and Times.

In the past several years, he has been portrayed in his papers as something of a desperado: His $10 fine for running a red light was duly reported, as was his arrest and $50 fine for hunting doves in a baited field.

Mr. Bingham contests the justice of the second rap (he says he didn't know someone had sprinkled grain around), but he doesn't complain about being persecuted in the press. Indeed, he directed that the stories be prominently displayed. "If we go around sticking pins in others, we have to be willing to be stuck in return," he says.

Clearly, the 40-year-old Mr. Bingham is no ordinary publisher, just as the papers his family has headed for three generations are no ordinary newspapers. To begin with, they are better than most; they have won a handful of Pulitzer Prizes and a slew of other national awards, and consistently show up in periodic surveys of the "top 10" newspapers.

PAYING THEIR OWN WAY

Moreover, the Bingham papers are the acknowledged Messrs. Clean of the newspaper industry. This is no small distinction at a time when the ethics and credibility of the American press are undergoing their closest scrutiny in recent memory.

The Courier-Journal (a morning paper with an average daily circulation of 233,000) and the Times (afternoons; circulation 175,000) make it strict policy not to accept gifts or junkets from news sources. Though this is fairly common practice for newspapers, the Bingham papers go further than most, insisting on buying tickets for performances attended by their movie, theater and music reviewers, and paying rent for space they use in government buildings in the course of their coverage. The papers' policy of paying for copies of books they review has been appealed by at least one publisher, who claims to have no way of accounting for their checks.

In addition, the papers are doggedly self-critical. They were among the first major publications in the country to appoint an "ombudsman" to see that corrections are published when they are warranted. And recently, the Louisville Times hired a columnist to evaluate the performance of both papers, as well as other news media.

"HOLIER-THAN-THOU"?

All this is a bit much for some in the newspaper business. Ralph Otwell, managing editor of the Chicago Sun-Times and president of Sigma Delta Chi, a journalists' group, calls the Louisville papers' ethical standards "admirable" and wishes they were more widely shared. Yet he adds that "things like paying for review copies of books seem to be gilding the lily." Says another admirer: "Sometimes they seem to have a 'holier-than-thou' attitude that can really be grating." Some staffers also have reservations. One reporter grumbles, "Integrity is one thing, but it gets tiresome wrestling people for $5 lunch checks."

Mr. Bingham isn't about to change, however. "Newspapers have a responsibility to be fair and neutral and I think that goes double for papers that are in a monopoly situation like we are," he declares.

Concern with fairness has marked the papers since Robert Worth Bingham, a lawyer, judge, diplomat and onetime mayor of Louisville, bought them in 1918. He got into the newspaper business mainly because he wanted an outlet for his internationalist, pro-League of Nations views.

The Courier-Journal's editor at that time was Henry Watterson, who was nearing the end of a lengthy career that had brought Louisville journalism its first national recognition. Mr. Watterson was a fiery, distinctive writer; his 1917 Pulitzer Prize-winning editorial urging U.S. involvement in World War I included the rallying cry, "To Hell with the Hapsburgs and Hohenzollerns." He was as passionately anti-League as Judge Bingham was pro-League, but he kept his job. The two men took turns blasting and praising the world organization on the editorial page until Mr. Watterson retired a year later.

When Judge Bingham died in 1937, direction of the paper fell to his son, Barry. During his 34-year tenure, the papers—especially the Courier-Journal—gained recognition for their reporting as well as for their liberal editorial stands.

The papers' ethical rules were set largely during the regime of Barry Bingham Sr. "Here was a man of means whose basic interest was with the quality of his newspapers, not the business side," observes Norman Isaacs, former executive editor of both papers and now associate dean of Columbia University's Graduate School of Journalism.

BARRY JR. PROVES HIMSELF

Barry Bingham Jr. became editor and publisher in 1971, when his father, now 88 years old, assumed the post of chairman. Barry Jr.'s older brother, Worth, who died in a 1966 auto accident, had been groomed for the newspaper posts, while Barry was to have taken over the family's broadcasting interests, including Louisville radio and television stations WHAS.

Barry Jr.'s lack of newspaper training caused some concern among the papers' editors and writers. More serious fears arose soon after his appointment, when it was discovered he had Hodgkin's disease, a cancer of the lymph glands.

His medical treatment began immediately, and it apparently has been successful; he's been on the job daily for more than two years now. The suspicions about his ability to run the newspapers also have been allayed. "Barry Jr. has carried on everything we did before and then some," says Michael J. Davies, managing editor of the Louisville Times. "Working here is like living in Camelot," he continues. "It's so good to go home at the end of the day with clean hands."

LOCAL COVERAGE EMPHASIZED

In terms of news coverage, few papers blanket their areas the way the Courier-Journal and Times do. Their combined news staff totals 337 persons, usually large for papers of their size. The two papers share a three-person Washington bureau, as well as sports, photography and Sunday-section departments; otherwise they employ separate staffs of writers and editors.

Like most papers, the Courier-Journal and Times concentrate on local and regional reporting. Each maintains a sizable staff in the Kentucky state capital of Frankfort and at New Albany in Southern Indiana. The Courier-Journal, which has a broader regional circulation, also stations reporters in Hazard and Madisonville, Ky., (the paper won a Pulitzer Prize in 1967 for documenting the ravages of strip mining in Kentucky) and in Indianapolis and Bloomington, Ind.

Neither paper has a foreign staff, long ago deciding not to engage in "buying date-lines" by sending reporters overseas. Instead they subscribe to the Associated Press and services of the Chicago Daily News, Los Angeles Times, Washington Post and New York Times. Even the Washington bureau "doesn't run with the herd and attend presidential press conferences," as one editor puts it. Instead, it mainly develops stories of regional interest and importance.

A WOMAN AT THE HELM

The Louisville Times has a four-person investigation team that, among other things, has detailed instances of lax sentencing of drunk-driving offenders. The paper says that since its disclosures, the courts have tightened up procedures and handed down stiffer penalties.

The Courier-Journal has no such team. "We think all our staff should be investigative reporters," explains George N. Gill, until recently managing editor and now vice president and general manager of the company. (Mr. Gill was succeeded as managing editor by Carol Sutton, formerly editor of the paper's "Today's Living" section. Miss Sutton is believed to be the first woman to head the news department of a major U.S. metropolitan daily.)

Sports reporting, a weak point with many papers, is through. A staff of 38 writers and deskmen covers the Southeastern Collegiate Conference (the University of Kentucky is a member); the Missouri Valley Conference (which includes the University of Louisville) and the Big 10 (Indiana University), as well as local professional and high-school events. Sports coverage is also distinguished at times: Two staffers recently won national news prizes for exposing scandals at Kentucky race tracks.

Though the papers' reporting is highly regarded within the profession, some observers feel its business coverage could be strengthened. Other critics maintain that the Sunday magazine relies too much on syndicated material.

A LIBERAL TRADITION

Editorially, both papers stick closely to traditional Bingham family positions. They are staunchly liberal, pro-civil rights and internationalist. They have supported every Democratic presidential candidate since Judge Bingham bought them, and they usually back that party's candidates for state and local office. Such views frequently draw ire from generally conservative Kentuckians, so the papers devote a larger-than-usual space to readers' letters. And the Courier-Journal carries conservative syndicated columnist James J. Kilpatrick, while the Times carries William F. Buckley Jr. Hugh Haynie, a widely syndicated editorial cartoonist, is a Courier-Journal staffer. Robert York, a 1955 Pulitzer Prize winner, fills that spot for the Times.

Because of their liberal reputation, both papers have long attracted young reporters.

In the past, reporters often used the Courier-Journal and Times as a stepping-stone to larger papers, notably the Washington Post. But turnover has slowed down dramatically in recent years. While the tight job market has been a major factor, executive editor Robert P. Clark suggests, "People may be realizing that Louisville isn't such a bad place to live and raise a family."

Salaries on the papers are relatively low, though the cost of living in Louisville isn't as high as in most larger cities. A starting reporter with a bachelor's degree makes $160 weekly, only $10 more than in 1970.

Most reporters are attracted by the papers' independence as well. Besides the ban on "freebies" for staff members, this is manifest in a strict avoidance of any hint of commercialism in stories, even those about sports events with a promotional twist. For instance, the papers call the Buick Open golf tournament the "Flint Open," after the Michigan city where it is held. The practice "drives businessmen up the wall," says Mr. Gill.

Such strictures also apply to the papers' internal business dealings. Purchases from firms in which the Binghams or any other member of management have an interest are forbidden.

When a Bingham-connected story appears, candor is the rule. Earlier this year, the Times' restaurant critic, Richard Des Ruisseaux, wrote a glowing review of a new local eatery. When he learned later that Barry Bingham Sr. owned a 15% piece of the establishment, Mr. Des Ruisseaux included the information in his next column. "I honestly didn't know about the Bingham tie at the time, but I wouldn't have written it any differently had I known," the critic says. "If I didn't like the place I would have panned it." Recently Mr. Bingham sold his interest in the restaurant because the owner decided he wanted to advertise in the papers. (Executives aren't permitted to hold an interest in any business that advertises in either paper.)

FIELDING READERS' GRIPES

The papers also have taken measures to assure their own accountability. In 1967, they were among the first major U.S. dailies actively to solicit readers' questions and complaints. John Herschenroeder, a former Courier-Journal city editor, was appointed to handle the 4,000 letters and telephone calls received annually.

Mr. Herschenroeder says most people just want to let off steam about a story or editorial they didn't like. When a factual error is claimed, he takes the matter up with the reporter involved, and if he thinks the complaint is justified, writes a correction to be run promptly and in a conspicuous place. "Some reporters didn't like the system at first, but most have come to accept it," he notes.

In 1972, the papers followed up the ombudsman innovation with the establishment of an office to look into the ethics of their advertising. At this unit's recommendation, the papers dropped mail-order health-insurance ads until standards of truthfulness could be drawn up for them. Officers of the papers say the ban cost about $100,000 in lost ad revenues.

NEEDLING MR. BINGHAM

Early this year, the papers carried their candor campaign one step further by hiring a columnist to write a twice-weekly critique of the media. "Barry Jr. told me to stick my needle nose into things, and that's what I've done," says Bob Schulman, who was imported from the Bingham broadcasting company to do the job.

Mr. Schulman, whose column is titled "In All Fairness," has taken both Bingham papers to task for such things as violating the ban on plugging sponsors of sports events (the Courier-Journal slipped by identifying a New York horse race as the Marlboro Cup, after its cigaret sponsor).

Publisher Bingham himself was a recent Schulman target because of comments he made after reporters for both papers were caught eavesdropping on a closed meeting of the local Fraternal Order of Police. The police were supposedly discussing charges that the police chief had authorized the installation of an electronic listening device in the car of a detective. Mr. Bingham said that he considered the reporters' tactics "morally wrong" but that considering the issue, "the public right to information at least rivals the organization's right to privacy." He praised the reporters involved for their "vigorous enterprise and competitive spirit."

But Mr. Schulman asked: "Does that sound right coming from newspapers that have consistently berated the Nixon White House as 'sleazy and immoral' for having excused improper acts to achieve the ends sought?"

Mr. Bingham's characteristic response to the column was that Mr. Schulman wasn't tough enough on him. "Instead of asking a rhetorical question, he should have come right out and said I was wrong," he says.

PAPERS, USUALLY CANDID, ARE COY ABOUT PROFITS

LOUISVILLE, KY.—For all their candor about other things, officers of the Louisville Courier-Journal and Times won't discuss details of the company's finances, other than to peg annual profits at about 3% of sales. The papers aren't required to disclose figures, because they are closely held.

The relatively low profit margin results from continually pumping revenues back into the news and editorial functions. For instance, at a cost of over $27,000, the papers published the entire White House version of the Watergate transcripts in a recent Sunday edition.

The Bingham family pays far closer attention to the financial side of the business than did Henry Watterson, the noted editorial writer who once ran the Courier-Journal.

Mr. Watterson, who wasn't much interested in the fine points of accounting, was in the habit of grabbing money from the till whenever he felt the need. The paper's bookkeeper finally prevailed on him to at least leave some record of his withdrawals.

One afternoon, the bookkeeper returned from lunch to find the following note in the cash drawer: "I took it all—H.W.."

IMPEACHMENT: THE HISTORICAL PROSPECTIVE

Mr. HARTKE. Mr. President, the Indiana State Bar Association publication Res Gestae, June 1974, contained an interesting and informative article written by an Indiana attorney, Calvin Bellamy, setting forth the historical perspective of impeachment.

Mr. President, I ask unanimous consent that the article be printed in the RECORD following my remarks, for the review of my colleagues.

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

IMPEACHMENT: THE HISTORICAL PROSPECTIVE

EDITOR'S NOTE. We believe you will find the following paper to be a vauable " refresher" and reminder of the purposes, nature, challenges and protection provided constitutionally by the impeachment process. We believe you will appreciate, especially, the research, the writing and reporting accomplished by our author. We commend this article as an impartial approach to what seems now to have become a deeply emotional subject.

(By Calvin Bellamy)

In the nearly two hundred years of our Constitutional government, more than fifty impeachment resolutions have been filed in Congress, but only twelve have survived examination by the House Judiciary Committee and come to a vote before the full House of Representatives.[1] As the nation prepares for what may become its thirteenth impeachment trial, the American people are beginning to show great interest in the impeachment process. What follows is an attempt at a concise review of the history and scholarship of impeachment—a framework for evaluating whatever specific allegations may emerge against Mr. Nixon.

MECHANICS OF IMPEACHMENT

Article I, Section 2 of the Constitution vests the House of Representatives with the sole power to initiate impeachment proceedings. Any member of that body may file an impeachment resolution in the same manner he would routinely introduce legislation. The Speaker generally refers impeachment resolutions to the Committee on the Judiciary for study and recommendation. If the committee recommends impeachment and if the full House concurs by vote of a simple majority, the official named in the impeachment resolution is thereby impeached. Whether he is also removed from office depends on the action of the Senate.

The House approved articles of impeachment are presented to the Senate by a group of Managers selected by the House from its own members. Throughout the Senate trial, the Managers serve in a capacity analogous to that of a prosecutor. The Vice President generally presides over the trial unless the President is being tried in which case the Constitution names the Chief Justice to officiate. The switch in presiding officers for a Presidential trial is undoubtedly based on the unseemliness of having the presiding officer in a position to benefit from the removal of the President.

The Senate trial is conducted with many of the same formalities found in a court room. The Constitution requires each Senator to take a special oath much as any juror would in a normal criminal trial. The impeached official is permitted to file a written answer to the House approved Articles of Impeachment. He is entitled to be represented by Counsel and may call witnesses in his behalf.[2]

Whether or not the impeached official offers a defense, he cannot be convicted unless two-thirds of the Senators present find him guilty of an impeachable offense. There are no default judgments in impeachment. Upon conviction, he is removed from office and forever barred for holding "any office of honor, trust, or profit under the United States." While the Senate cannot fine or imprison an official convicted of impeachment, the Constitution does provide that "the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to the law" for any of his actions that may also constitute an indictable crime. (Article I, Section 3)

OFFICERS SUBJECT TO IMPEACHMENT

Article II, Section 4 of the Constitution describes the Officers subject to impeachment as "the President, Vice President and all civil officers." Of course, the definitions is unambiguous as it relates to the President and Vice President, but who is included in the term "civil officer"?

It is universally agreed that the term does not include military officers.[3] Beyond that point, the meaning has not always been clear. The definition of "civil officer" has been an important factor in two of the twelve impeachment trials. The nation's very first

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Footnotes at end of article.

impeachment trial involved United States Senator William Blount who was impeached by the House of Representatives for his dealings with a foreign power. By a vote of 14 to 11 the Senate dismissed the charge against the Senator on the ground that it "ought not to hold jurisdiction." [4] This result has usually been cited for the proposition that members of Congress are exempt from impeachment because they are not civil officers.

Nearly 100 years after the Blount trial, the Supreme Court in *United States v. Mouat* had occasion to define "officer of the United States":

Unless a person in the service of the government holds his place by virtue of an appointment by the President, or of one of the courts of justice or heads of departments, he is not, strictly speaking, an officer of the United States.[5]

Admittedly the Court was interpreting a clause unrelated to the impeachment provision, but the definition involves a similar term and it clearly excludes Congressmen.

The verdict in the Blount impeachment may also relate to another aspect of the definition of "civil officer"—whether a person can be impeached after he has left office. In a provision independent of the impeachment power, the Constitution empowers either house of Congress to expel any of its members for any purpose. The Senate made use of this power to expel Blount so that by the time of his impeachment trial he was no longer a United States Senator. Arguably, his departure from office provided another reason for the Senate vote finding a lack of jurisdiction.

This issue was raised more directly in 1876 when the House voted to impeach Grant's Secretary of War William W. Belknap for having required kickback payments from his appointees. On the eve of the vote in the House, Belknap hurriedly resigned his office. Despite the resignation, the House still voted articles of impeachment against him and the Senate proceeded with the trial. However, Belknap was acquitted when the Senate vote fell below the required two-thirds. Twenty-two of the twenty-five Senators voting against conviction cited Belknap's resignation as the basis of their negative votes. His resignation, they argued, terminated his status as a civil officer.[6]

While these two cases do not completely dispose of the point, they certainly add weight to the proposition that departure from office effectively cuts off further impeachment proceedings because the former officer holder is no longer a "civil officer." Presumably the same would hold true if the President or Vice President resigned in the face of an impeachment threat.

Impeachment proceedings terminated by either resignation or conviction serve the same immediate purpose: the individual leaves his public office. There is, however, an important difference in the long run. An official who resigns under threat of impeachment can, at least theoretically, serve again as a "civil officer" of the United States. However, an official impeached and convicted is forever barred from any future service.

IMPEACHABLE OFFENSES

The Constitution in Article II, Section 4 defines an impeachable offense as "treason, bribery or other high crimes and misdemeanors." Neither of the first two standards has yet been used as a specific basis for impeachment. All the articles of impeachment voted to date have asserted some conduct which the House has labeled "high crimes and misdemeanors." The British and American precedents examined in the following paragraphs lead to two conclusions about the meaning of this term: (1) impeachable offenses arise from a gross misconduct of office, but (2) they do not necessarily have to be indictable crimes.

Footnotes at end of article.

The phrase "high crimes and misdemeanors" is not well known in our law. The Constitution contains no definition of it and it has no widely accepted meaning in common law. The only similar term in the present federal code is the declaration that the practice of law by a federal judge is a "high misdemeanor." [7]

The phrase was born in an English impeachment setting, probably making its initial appearance in the impeachment trial of the Earl of Suffolk in the late 1300s.[8] By the time of our Constitutional Convention, the British had had hundreds of years of experience with its use as a basis for impeachment. We know that the Framers were familiar with the British interpretation of the term because the notorious, eight year impeachment trial of Warren Hastings was in progress during our Convention and was referred to during the proceedings.[9]

Because of the specialized nature of the phrase "high crimes and misdemeanors" and because it was a matter of public discussion on both sides of the Atlantic while the Framers met in Philadelphia, scholars have given great weight to the meaning the term had acquired in England. Professor Berger, for example, has distilled the British precedent into seven categories of offenses: misapplication of funds, abuse of official power, neglect of duty, encroachment of Parliament's prerogatives, corruption, betrayal of national trust and giving "pernicious advice" to the King.[10] The crucial point is that many of these categories do not necessarily involve indictable crimes. In fact, Berger points out that at the time of the Earl of Suffolk's impeachment, the term "misdemeanor" had not yet come into the criminal law and would not be thought of as a crime until 150 years later:

In addition . . . to the gap of 150 years that separates "misdemeanors," from "high misdemeanors," there is a sharp functional division between the two. "High crimes and misdemeanors" were a category of political crimes against the state, whereas "misdemeanors" described criminal sanctions for private wrongs.[11]

Another scholar has expressed a similar position by summarizing the English precedent on impeachable offenses as involving "acts of a criminal nature, grave misuse of one's official position, or treasonous-like conduct." [12]

AMERICAN CONSTITUTIONAL HISTORY

Considering the unique and technical nature of "high crimes and misdemeanors" in England, the most logical assumption is that the Framers intended to incorporate a somewhat analogous procedure in our Constitution. There are only a few places during the proceedings of the Convention where something like the phrase "high crimes and misdemeanors" was actually discussed. One of the most helpful discussions took place during debate on the extradition provisions found in Article XV of the Constitution. An early draft called for extradition of a fugitive charged with "treason, felony or high misdemeanor." The delegates quickly struck "high misdemeanor" and replaced it with "other crime," expressing the belief that "high misdemeanor" had a"technical meaning too limited." [13]

In the debate on the impeachment clause itself, the delegates did not attempt a specific definition of the term. Initially, the impeachment standard included only "treason and bribery." After the delegates recognized the standard as being too narrow, George Mason moved to add "maladministration." James Madison, however, felt "maladministration" was too broad. He feared that mere disagreements on policy would lead to impeachment and that the President would be reduced "to a tenure during the pleasure of the Senate." Not wanting a parliamentary system, the Convention apparently turned to the English impeachment precedent for the specific terminology of "high crimes and misdemeanors," which was then carried verbatim into our Constitution.[14]

Beyond that, there is no further discussion of impeachment at the Convention. However, there are several other sources contemporaneous with the Convention that discussed the meaning of impeachment. For example, Hamilton, writing in *The Federalist* No. 65, referred his readers back to the British precedents as "the model, from which the idea of this institution has been borrowed. . . ."

Some of the state conventions called to ratify the Constitution also provide guidance on the meaning of "high crimes and misdemeanors." [15] In the South Carolina convention, Charles Pinckney noted that impeachment reaches "those who behave amiss, or betray their public trust." [16] North Carolina's James Iredell opined that impeachment "will arise from acts of great injury to the community, and the objects of it may be such as cannot be easily reached by an ordinary tribunal." [17] James Wilson, arguing the advantages of a single chief executive in the Pennsylvania convention, explained that the President "cannot roll upon any other person the weight of his criminality; no appointment can take place without his nomination; he is responsible for every nomination he makes. . . ." [18]

The prestigious Virginia convention discussed impeachment at some length. George Mason argued that impeachment would be appropriate if the President used his pardoning power to "pardon crimes which were advised by himself" or if the President should use his office "to stop inquiry and prevent detection" of such crimes.[19] Madison added that if the "President be connected, in any suspicious manner, with any person, and there be grounds to believe he will shelter him, the House of Representatives can impeach him. . . ." [20]

In the first Congress following the ratification of the Constitution, Madison again discussed the power of impeachment. Commenting on the floor of the House of Representatives during debate on whether the President has the power to dismiss an appointee who has been confirmed by the Senate, Madison argued that the President had the absolute power to remove such officials and one consequence of his removal power is to "subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses." [21]

The types of offenses mentioned by the first leaders of our nation seemed to be "offenses against the government and especially abuses of constitutional duties." [22] This conclusion is certainly consistent with Professor Berger's characterization of "high crimes and misdemeanors" from the British precedents.

AMERICAN IMPEACHMENT CASES

The American impeachment cases have been relatively few in number and have arisen under diverse circumstances. Some of them have been blatantly partisan, the most egregious case being that of the impeachment of President Andrew Johnson. Since the Senate has one hundred judges and issues no written opinion supporting its decisions, it is difficult to identify precedent, especially since only four of the trials have resulted in convictions. The cases are, of course, a mixture of law and fact—usually with no certain way of determining whether the Senate acquitted the accused because the House failed to prove the charge or because the Senate felt the charge did not constitute an impeachable offense.

The four convictions voted by the Senate have all been obtained against federal judges. Judge Pickering was convicted in a partisan atmosphere largely on the basis of continuous drunkenness and profanity while holding court. Judge Humphreys was convicted for joining the Confederacy and abandoning his duties as a federal judge. Judge

Archbald was removed for using his office for purposes of profiteering.[23] The most recent conviction, that of Judge Ritter in 1936, is in someways the most interesting. He was charged wtih six counts of specific abuses including fee splitting, practicing law while a judge and income tax evasion. The Senate was not able to muster a two-thirds vote on any of these specific charges, but instead removed him on the basis of the seventh charge, which stated that the 'reasonable and probable consequence of the actions" charged against the Judge would be "to bring his court into scandal and disrepute, to the prejudice of said court and public confidence in the administration of justice." [24] Even though the Senate was unable to convict him on specific allegations, they did find his general demeanor so grossly incompatible wtih the dignity of the office that they voted to remove him from office.

An interesting additional basis for impeachment may arise from an official's failure to cooperate with an impeachment investigation. In 1846, President Polk conceded wide latitude to Congress when investigating official misconduct in connection with its impeachment powers. Polk wrote to the House that "the power of the House in the pursuit of this object would penetrate into the most secret recesses of the Executive Department. It could command the attendance of any and every agent of the Government and compel them to produce all papers, public or private, official or unofficial, and to testify on oath to all facts within their knowledge." [25] President Nixon expressed a similar view in 1970 during the impeachment investigation of Justice Douglas when he stated "the executive branch is clearly obligated, both by precedent and by the necessity of the House of Representatives having all the facts before reaching its decision, to supply relevant information to the legislative branch . . . to the extent compatible with the public interest." [26] The Supreme Court in dictum in *Kilborn v. Thompson* [27] also recognized a broad Congessional power to compel testimony in an impeachment proceeding.

With Professor Berger's study of British impeachment precedent and the record of our own Constitutional history and precedents, it is possible to draw some conclusions about the nature of an impeachable offense. Certainly there is enough data to reject Gerald Ford's 1970 position that there are no standards governing impeachment [28] Whatever the difficulties in defining "high crimes and misdemeanors," it is an important effort so that impeachment will become neither a lifeless process never used nor a too lively device used carelessly to subvert our finely balanced tripartite government.

History and commonsense tell us that an official should be impeached only for some action or omission that is serious in nature. Certainly failure to obey an order of the Supreme Court or the commission of an indictable felony would be a serious offense, but indictable crimes do not define the limits of impeachable offenses. Professor Berger's English impeachment precedents contain many examples of nonindictable offenses. Judging from contemporary comments, the object of the Framers of our Constitution was that officials who grossly abused their public trust, even in non-criminal ways, should be removed from office. Professor Irving Brant, although greatly concerned about the ex post facto nature of non-criminal impeachment grounds, also recognizes a large category of such grounds which he groups under the heading of "violations of the oath of office," a category which he says includes "gross and willful neglect of duty." [29]

JUDICIAL REVIEW OF IMPEACHMENT

Only once has an impeachment decision been challenged in the courts. In 1936, after Judge Ritter had been removed from office, he brought suit in the Court of Claims for backpay. He alleged his removal was unconstitutional because the Senate exceeded its jurisdiction by trying to remove him from office on a charge that did not constitute an impeachable offense. He further argued that having been acquitted on the first six charges, the seventh, which merely summarized the other six, could not support a conviction. The Court of Claims dismissed the suit on the ground that the Constitution vested the Senate with the sole jurisdiction to try impeachment, holding that ". . . while there was some suggestion . . . [at the Constitutional Convention] that the Senate might abuse its power, there was no intimation by anyone that the impeachment proceeding might be reviewed or set aside by the courts. [30] Since the Supreme Court denied certiorari, this case is not a firm precedent. Moreover, in the forty years since the Ritter case, the Supreme Court's concept of its jurisdictional limits has changed dramatically.

In any future challenge to an impeachment conviction, an important role will undoubtedly be given to the Supreme Court's recent decision in *Powell v. McCormack*.[31] The case arose from the misdeeds of flamboyant Harlem Congressman Adam Clayton Powell. A House Committee found Powell had improperly diverted official funds and made false reports on the expenditure of certain foreign currency under his control. Because of these transgressions, he was barred from taking his seat in the House of Representatives. Powell sued arguing that he met the Constitutional standards (set forth in Article I) of age, citizenship and residency and that having been elected by his constituents in a manner unchallenged by anyone, he must be seated. The attorneys for the House of Representatives moved to dismiss the suit on the ground that the Constitution made each house of Congress the sole judge of the qualifications of its members.

The Court held for Powell finding that the House was required to test the qualifications of its members only on the basis of the standard set forth in the Constitution. Having exceeded that standard, the House unconstitutionally barred Mr. Powell from his seat. The impact of this decision on the impeachment question is obvious. Despite the apparently exclusive right of the House to judge the qualifications of its own members, the Court accepted jurisdiction and decided against the House when it exceeded the Constitutional standard. Similarly, the Court might intervene if the House impeaches and the Senate convicts a civil officer of the United States on some basis that the Court finds exceeds the Constitutional standards of "treason, bribery or other high crimes and misdemeanors."

An additional basis for judicial review of impeachment was recently suggested by former Supreme Court Justice Arthur Goldberg. He would permit judicial review "on a very narrow ground—that is, where there was a failure to give due process." [32] Consequently, even if the Congress were properly operating within the Constitutional standards for impeachment, its decision might still be subject to attack on the grounds of procedural unfairness if the Goldberg position is accepted by the Court.

On the other hand, it should be noted that the Constitutional standard in the *Powell* case is a very easy one for the Court to apply. The impeachment standard, being less objective, may be less susceptible to judicial definition. While this definitional problem would not necessarily deter the Court, it might lead the Court to forebear except on a case involving only the most blatant abuse by Congress.

Another important point about judicial intervention is the unparalleled confusion that could result in the judicial review of the impeachment of a President. Judicial review of the explusion of one member of Congress or of the impeachment of one judge or lesser federal official does not prevent the functioning of that branch of government. But the judicial review of a Presidential impeachment could paralyze the Executive branch. All the legislation enacted during that period might be subject to challenge. Our ability to conduct foreign affairs and the American people's conception of the legitimacy of their government could be severely impaired.

CONCLUSION

The procedural unfairness of Andrew Johnson's trial has given impeachment a bad name. And even though impeachment has been voted six times by the House of Representatives since then, the procedure has never fully regained respectability. Andrew Johnson, who was given only about three weeks to prepare his case for trial and who was victimized by unjust procedural decisions throughout his trial,[33] nevertheless survived his ordeal. But the mistakes made by Congress in the Johnson case should not obscure the fact that the Framers of our Constitution crafted a system for the removal of officials who exceeded the Constitutional bounds of their office or behaved in a manner grossly incompatible with proper function of the office or used their office for improper personal gain.

In the period since the Johnson trial, we have focused our attention on the grave consequences of using the impeachment power. But we should also recognize that there may be serious consequences to our system and style of government if we fail to impeach when the need arises. While our Founding Fathers did not intend to make it easy to remove a federal official from office, they did intend that option to be available.

FOOTNOTES

[1] Smith, "Due Process for the President," N.Y. TIMES MAG., May 27, 1973, p. 52 and Fenton, "The Scope of the Impeachment Power," 65 NW. U.L. REC. 719 (1971).

[2] See detailed discussion of Senate trial procedures in Simpson, "Federal Impeachments," 64 U. PA. L. REV. 651, 667–676 (1916).

[3] BLACK'S LAW DICTIONARY 1235 (4th ed. 1951).

[4] R. Berger, IMPEACHMENT: THE CONSTITUTIONAL PROBLEMS 214 (1973). See also Yankwich, "Impeachment of Civil Officers under the Federal Constitution," 26 GEO. L.J. 849, 852 (1938).

[5] 124 U.S. 303, 307 (1888).

[6] Swindler, "High Court of Congress: Impeachment Trials 1797–1936," 60 A.B.A.J. 420, 425 (1974). For argument that resignation should not terminate impeachability, see Bestor, Book Review, 49 WASH. L. REV. 255, 278–281 (1973).

[7] 28 U.S.C.A. § 454 (1968).

[8] R. Berger, *supra* at 59. Also see Simpson, *supra* at 681 and Yankwich, *supra* at 849.

[9] Feerick, "Impeaching Federal Judges," 39 FORDHAM L. REV. 1, 9 (1970) and STAFF of HOUSE COMM. ON THE JUDICIARY, 93rd CONG., 2D SESS., REPORT ON CONSTITUTIONAL GROUNDS FOR PRESIDENTIAL IMPEACHMENT 12 (Comm. Print 1974).

[10] R. Berger, *supra* at 70–71. Justice Story, writing more than a hundred years earlier, saw many of the same categories. 1 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 565–566 (4th ed. 1873).

[11] R. Berger, *supra* at 61.

[12] Feerick, *supra* at 8.

[13] R. Berger, *supra* at 74 and Simpson, *supra* at 662.

[14] Staff of House Comm. on the Judiciary, 93rd Cong., 2d Sess., Report on Constitutional Grounds for Presidential Impeachment 11–12 (Comm. Print 1974) and R. Berger, *supra* at 74.

[15] In determining the true meaning of the Constitution, Madison established what he

considered the correct priority of sources. In his view, the best source was the state ratifying conventions, secondly public writings on the Constitution during the period of the state ratification process, thirdly the proceedings of the early Congresses and only lastly the views expressed at the federal convention. Dewey, "James Madison Helps Clio Interpret the Constitution," (15 Am. J. Legal Hist. 38, 39 (1971).

[16] STAFF REPORT OF HOUSE COMMITTEE ON THE JUDICIARY, *supra* at 13 and R. Berger, *supra* at 89.

[17] Feerick, *supra* at 25.

[18] STAFF REPORT OF HOUSE COMMITTEE ON THE JUDICIARY, *supra* at 9.

[19] *Id.* at 13.

[20] *Id.* at 13–14.

[21] *Id.* at 15.

[22] *Id.* at 14–15.

[23] A recent concise summary of the charges against each of the twelve impeached officials can be found in Swindler, *supra* at 427. Also see Fenton, *supra* at 748–758.

[24] Yankowich, *supra* at 858.

[25] Schlesinger, "What If We Don't Impeach Him?" HARPERS, May, 1974, 248:14.

[26] Smith, *supra* at 52.

[27] 103 U.S. 168, 190 (1880).

[28] In leading the fight for the impeachment of Justice Douglas in 1970, Mr. Ford said, ". . . an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history. . . ." 116 CONG. REC. 11913.

[29] I. Brant, IMPEACHMENT: TRIALS AND ERRORS 20 (1972).

[30] 84 Ct. Cl. 293, 298 (1936), cert. denied 300 U.S. 668 (1937).

[31] 395 U.S. 468 (1969).

[32] Press conference statement in Chicago reported in Chicago Sun-Times, April 26, 1974, p. 50, col. 1 (three star edition).

[33] R. Berger, *supra* at 267–8 and Swindler, *supra* at 425.

DEATH OF FORMER CHIEF JUSTICE EARL WARREN

Mr. MUSKIE. Mr. President, Earl Warren is dead.

He was a part of history while he lived; and history will continue to record and bless his influence upon the lives of his fellow Americans and their children for generations to come.

That influence will not die. He breathed new vitality into the life of our political system. He recommitted it to the sovereignty of the people.

The constitutional purpose, as he saw it, was not the enshrinement of the powers of Government, or any of its branches. It was, rather, to subject Government, and governmental authority, to the needs and the will of the people.

In the age-old relationship between Government and citizen it is the citizen who must be protected against abuses of the powers delegated to those in authority. And so he committed himself to the attainment of equal justice under law—equal educational opportunities—equal political opportunities—and a fair chance at the bar of justice—for every and any citizen.

Yes, Earl Warren will live in history.

But we have lost his presence among us—that simple, courtly, kindly man—who knew no malice, whose compassion knew no bounds, whose friendship was a joy to be treasured as long as memory lasts.

There was no pretension about him—no false pride—no condescension. Wherever he walked, he was welcome. As he said in a recent speech, "Each of us can make a difference." To him, each of us—whoever we are—is vested with a dignity and a worth that make us equals. Believing that, in his innermost being, he exuded a warmth that reached out to all mankind.

Some lines by James Russell Lowell describe him better than anything I can find to say:

His magic was not far to seek—
He was so human! Whether strong or weak
Far from his kind he neither sank nor soared,
But sate an equal guest at every board.
No beggar ever felt him condescend,
No prince presume; for still himself he bare,
At manhood's simple level, and where'er
He met a stranger, there he left a friend.

Mrs. Muskie and I are deeply saddened by his loss; but we rejoice in the friendship we were privileged to share.

Mr. President, I ask unanimous consent that there be printed in the RECORD an eloquent and perceptive sketch of Chief Justice Warren's career by Alan Barth which appeared in the Washington Post on July 10, 1974.

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

CHIEF JUSTICE WARREN: HIS COURT RESHAPED THE NATION

(By Alan Barth)

By nearly every standard that can be said to measure judicial stature, Earl Warren must be counted among the great chief justices of the United States—the greatest, in all probability, since John Marshall.

Like John Marshall, Earl Warren presided over the Supreme Court during a period of dramatic change in the character of American life. The "Marshall court" at the inception of the Republic wrote upon a clean slate in giving vitality to the United States Constitution and in delineating for itself a decisive role as a shaper of the national destiny. The "Warren court" adapted the institutions of a developing society to the needs of a fully developed nation, a great military and economic power in a world made intimate by scientific and technological advances altogether beyond the imagination of the Constitution's framers.

It is apt to be misleading to designate a court by the name of a Chief Justice who is, after all, but *primus inter pares* among its members. But in the case of Earl Warren as in the case of John Marshall, the designation seems justified not alone as the mere indication of a time period but as a recognition of leadership and influence.

The court over which Warren presided was an extraordinarily vigorous one, replete with powerful personalities. He was surpassed by several of its members in legal learning, in felicity of expression, in depth of judicial perception and philosophy. As administrator of the court's affairs, however, he gave the disparate justices a measure of unity and a sure sense of the tremendous political role the court had to play in its time.

In ceremonies marking the conclusion of Warren's term as Chief Justice and the installation of Warren E. Burger as his successor, President Richard M. Nixon remarked: "Sixteen years have passed since the Chief Justice assumed his present position. These 16 years, without doubt, will be described by historians as years of greater change than any in our history."

A society once overwhelmingly rural in residence and agricultural in occupation had become predominantly urban and industrial. This shift was accompanied by a vast migration from small towns and villages into great metropolitan centers and brought with it a social upheaval entailing immense alterations in social values and immense problems of social adjustment. An important part of the population movement involved great numbers of Negroes uprooted by technological change from the southern cotton fields where they had worked first as slaves and later as sharecroppers and who now found themselves penned in the decaying slums of inner cities wholly unequipped by reason of illiteracy and ignorance to compete for a livelihood in an advanced industrial economy.

These black Americans were clamoring for civil rights and for economic opportunity. Migration to the cities made the disproportionately rural representation in state legislatures seem altogether inequitable and anachronistic. Education, police authority, social institutions, media of communication, esthetic and moral values, even religion, were all undergoing dramatic changes. The law, indeed the whole relation of the state to the individual, had to change with them. And it was over that transformation of the American community that the Warren court presided.

"No decade in American history has brought to the Supreme Court such a diversity of deeply troublesome and controversial questions," this newspaper commented editorially on the 10th anniversary of Warren's appointment as Chief Justice. And a member of Congress remarked, not happily, that "our entire way of life in this country is being revised and remolded by the nine justices of the Supreme Court."

Earl Warren was born in Los Angeles, Calif., on March 19, 1891, the second child of a railroad worker named Methias H. Varran, brought to this country in infancy from Norway. The name was anglicized to "Matt Warren." Matt was not a man of much education but he was intensely interested in reading and in learning—for his children no less than for himself. The family fortunes were not resplendent. John D. Weaver, in a biography of Earl Warren, says that the boy once asked his father why he had no middle name. "Son," Matt Warren answered, "when you were born, we were too poor to enjoy any luxury of that kind."

But Matt Warren was industrious and provident, saving money and investing it shrewdly. He was determined that his children should have the education he had missed. He worked his way up on the Southern Pacific from a mechanic to a master car builder. In 1938, when Matt had retired from his railroad job and when his son, Earl, was district attorney of California's third largest county, the body of the father, then 73 years old, was found in the kitchen of his home, bludgeoned to death with a lead pipe. It was a case of robbery—evidently by someone who supposed the old man had concealed wealth on his premises. The murderer was never found.

Earl did odd jobs when he was young, working for a while as a call boy for the railroad. He did well enough in school but was more interested in sports than in study. He put himself through college and law school at the University of California.

Warren spent about three years in private practice after his graduation from law school and before he enlisted in the Army upon America's entry into the first world war. He saw no service overseas but he rose to the rank of second lieutenant. Following his discharge from the Army, he obtained an appointment as a deputy in the Alameda County district attorney's office and remained a public employee for all the rest of his working years until his retirement as Chief Justice of the United States.

Warren was elevated to the office of district attorney in 1925 and, in the course of 13 years in that post won a reputation as a crusading prosecutor, tough but compassionate and fair. "The only way the racketeers can get control in any community," he once said, "is by alliance with politics, and control of your public officials, your courts, your sheriff, your police chief,

your district attorney, and other law enforcement agencies."

Earl Warren was a strict law and order man, known much more for his personal probity and prosecutorial skill than for any sociological pioneering. During Prohibition, he became a teetotaller, not out of any dislike of drinking but out of a disciplined sense of duty. "How can I drink bootleg liquor at a party on Sunday night." John Weaver quotes him as having said, "and then on Monday morning send my deputies to prosecute bootleggers?"

Politically, he was aligned with the right wing of the Republican Party in California. He was an ardent champion of states' rights. As attorney general he was vehement in his denunciation of Communist radicals and as governor vociferously supported the military decision, after the attack on Pearl Harbor, to remove all persons of Japanese ancestry from the West Coast and put them in detention centers in the interior of the country.

He grew prodigiously in office, however. In 1945, during his first term as governor, he became convinced that California needed a state program of prepaid medical insurance. The California Medical Association regarded this, of course, as "socialized medicine" and fought it ferociously. No doubt the sheer irrationality of its opposition served to move the governor into even more shocking forms of progressivism. He undertook the reorganization of the state's antiquated Department of Mental Hygiene, inaugurating a modernization of mental institutions which put California in the forefront in this field. He put through the legislature stringent legislation regulating lobbyists. He fought the petroleum interests to a standstill in obtaining enactment of an equitable highway development bill and in the face of bitter opposition from the private power lobby championed the Central Valley project for the public development of hydroelectric energy.

When Warren ran for a second term as governor of California in 1946, he did so on a record of legislation which extended enlightened and progressive help to the state's unemployed, handicapped, elderly and mentally ill. Moreover, the state was free of debt, and taxes had been cut by above 15 per cent. He won the nomination of both major parties and was resoundingly reelected—the second governor to serve a second term in a century of California experience.

A Democratic governor who served California some years later—Edmund G. (Pat) Brown—said of Earl Warren: "He was the best governor California ever had. He faced the problems of growth and social responsibility and met them head on. He felt the people of the state were in his care, and he cared for them."

Warren had by then, of course, become something of a national figure and certainly the outstanding Western Republican politician. Somewhat reluctantly, as a matter of party loyalty, he accepted the GOP nomination for the vice presidency in 1948 as the running mate of Gov. Thomas E. Dewey. They went down to defeat. It was the only election Warren ever lost. But Warren had a third term to serve in the gubernatorial mansion in Sacramento.

In 1952, Warren was a serious contender for the GOP presidential nomination at a convention in which Gen. Eisenhower and Sen. Taft were considered the frontrunners. The California delegation, including the state's junior senator, Richard M. Nixon, was pledged to the governor.

According to John D. Weaver, "Nixon was suspected by the governor's political tacticians of having made a deal to deliver to the general the secondary strength he would have had to demonstrate if he had failed to get the nomination on the first ballot." The first ballot nomination, in any case, went to Eisenhower, and the nomination for the vice presidency went to Nixon. Whatever the merits of the matter, an enduring coolness developed between Nixon and Warren.

In the final days of his third term as governor, Warren announced that he would not be a candidate for re-election. A few days after this announcement, in September, 1953, Fred M. Vinson, then Chief Justice of the United States, died. President Eisenhower promptly nominated Gov. Warren for the great office, remarking that he made the choice on the basis of the governor's "integrity, honesty, middle-of-the-road philosophy . . ."

Warren came to a court diminished in prestige and deeply divided not alone by ideological differences but by personal hostilities among its members. It was a measure of his qualities of leadership that the new Chief Justice managed, from the very outset of his tenure, to heal, or at least to bridge, these divisions. He won at once the warm regard as well as the respect of all his associates. The achievement contributed immeasurably to a restoration of the court's prestige and influence.

One of the great controversies of American history came before the court at the very beginning of Warren's chief justiceship: the question whether state-enforced segregation of Americans on the basis of race is constitutionally impermissible because it entails a denial of the equal protection of the laws.

Historically, the court had held that racial segregation was not unconstitutional provided the facilities afforded the two races were essentially equal. For more than a decade, however, the court had recognized in a series of decisions that the schools, hospitals and other public facilities provided for Negroes were, in fact, markedly inferior to those provided for white persons.

Brown v. Board of Education came before the court in Warren's first term. When it was decided on May 17, 1954, the opinion of the court, written by the new Chief Justice himself, had the unanimous concurrence of his associate justices and represented one of the great landmarks in American jurisprudence. "We conclude," Warren wrote, "that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal . . ."

The ruling was soon applied, of course, and with continuing unanimity to fields other than public education. The unanimity of the court achieved under Warren's leadership was a testimonial to his judicial statesmanship and contributed significantly to the impact and effectiveness of the dramatic change in race relations required by the decision. That impact and effectiveness were diminished, however, by the failure of the Eisenhower administration to give the court moral and political support. Massive resistance to the decision began to develop in the Southern states; and from that time forward the Chief Justice became the target of vicious attacks by demagogues and reactionaries, including even a campaign sparked principally by the John Birch Society, for his impeachment.

A decade later, in 1964, the Chief Justice wrote opinions for the court in six cases decided simultaneously in which the residents of half a dozen states challenged the validity of apportionment in legislatures where sparsely populated rural districts enjoyed the same representation as much more populous urban districts. Under this arrangement, rural residents of the states wielded much more political power than city dwellers.

For a court divided this time 7 to 2, Warren held that this inequality violated the constitutional promise of equal protection. He ruled, moreover, that the requirement of population equality in election districts applied to both branches of bicameral state legislatures, rejecting any analogy between them and the national Congress where the federal Constitution provided for equal representation of states in the Senate regardless of their size or population.

"Legislatures," Warren wrote, "represent people, not acres or trees. Legislators are elected by voters, not farms or cities or economic interests. . . . The weight of a citizen's vote cannot be made to depend on where he lives."

This decision was quite comparable in importance and in political impact to the school desegregation ruling and evoked an almost equal sense of outrage among those who viewed it as a judicial intrusion into the legislative domain. It confirmed the view of Warren's critics that he was an inveterate judicial activist. On the other hand, it corrected a political injustice and imbalance that, given the rural ascendency in state legislatures, had no real possibility of correction through legislative action.

The Warren court outraged conservative sensibilities in one additional area, the field of criminal law. Over a decade or more the court wrought a revolution in extending to defendants in state courts the protections guaranteed to them in federal courts by the Bill of Rights. The Chief Justice's most signal contribution in this process was in regard to the admissibility of confessions. A confession, no matter how reliable, must be excluded from a criminal prosecution, he ruled, if it were obtained by coercion, threat or trickery of any sort. "The abhorrence of society to the use of involuntary confessions," he wrote in Spano v. New York, decided in 1959, "does not turn alone on their inherent untrustworthiness. It also turns on the deep-rooted feeling that the police must obey the law while enforcing the law; that in the end life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves."

The strongly held views of the Chief Justice regarding the right of persons charged with crime found its culmination in what was perhaps the most controversial of all his opinions, handed down in the Miranda case in 1966. The decision held that the police must warn any arrested person, before questioning him in connection with a crime, that he has a right to remain silent, that any statement he makes may be used against him and that he is entitled to consult an attorney (to be provided for him by the state if he cannot afford to hire one himself) before or during any interrogation. Omission of any of those requirements would make a confession inadmissible.

These procedural rights have been an immemorial part of the folklore of American justice. How far they were from observance in reality was attested by the tornado of indignation that the Warren opinion generated from law enforcement officers and district attorneys. It is perhaps profoundly significant, however, that the opinion came from a judge who had had long and ripe experience as a public prosecutor.

To Chief Justice Warren, Anthony Lewis remarked in a distinguished monograph, "justice consisted not of providing a fair mechanism of decision but of seeing that the right side, the good side, prevailed in the particular case . . . Often the framework of the argument seems ethical rather than legal . . ." This appraisal seems in large measure just as discerning. In a speech delivered in 1962, the Chief Justice spoke of law as floating "in a sea of ethics." In a profoundly conscientious sense, he thought of the Supreme Court as a force for "good."

The whole of his career was devoted to public service in an activist sense of the term. He believed, above all else, in righting wrong. His thinking was robust and healthy rather than subtle or sinuous; and it rested on elementary American values—confidence in the good sense of the people, in the utility of freedom, in the ultimate triumph of truth over error. "A prime function of government," he wrote in the only book he ever published—"A Republic, If You Can Keep It"—"has always been . . . to protect the weak against the strong."

Warren's devotion to the public service was marked by an impeccable personal integrity. It is perhaps unique among public men, and certainly unusual, that from the moment he entered public service in California, Earl Warren never took a dime from anyone for a speech, article or any other kind of private or public activity. And once he accepted appointment to the chief justiceship he never manifested the slightest interest in any political office or influence. His commitment to the court was all-embracing.

If his opinions were not particularly notable for elegance or eloquence, they were nevertheless soundly reasoned and made powerful by the feeling of decency and compassion that informed them. At least in the fields of politics and law enforcement, where he had rich experience, his views commanded great respect and influence.

As the leader of an embattled court engaged in adapting the law to new economic and political circumstances, moreover, he displayed a high degree of judicial statesmanship. He was a man of clear conviction and of granitic strength. Once he quit elective office for the bench, he became wholly indifferent to popular favor and to public excoriation. He will be counted, undoubtedly, as one of the titanic figures in the history of the Supreme Court.

Once he joined the court, the only major interruption in his work came when President Johnson persuaded him to become chairman of the commission to investigate the assassination of President Kennedy. The Chief Justice undertook that assignment reluctantly. He apparently believed that a member of the court should not engage in non-judicial activities, but had been convinced by President Johnson that his personal prestige and the prestige of his office was needed to calm public fears that the investigation would be a whitewash. The report of the commission did much to quash fears that the assassination was part of a large conspiracy.

After stepping down as Chief Justice in 1969, Warren remained active in judicial affairs, speaking largely on matters of judicial administration and working at his office in the Supreme Court building. He maintained his lifelong interest in sports and was a regular spectator at football games of the Washington Redskins.

In 1925, Warren married Nina Palmquist Meyers, the widow of a musician who had died when their son, James, was three weeks old. Her mother had died when Nina was three years old, her father when she was 13; and she had been self-supporting ever since. James was adopted by his stepfather, and the family was enlarged in succeeding years by the birth of Virginia in 1928, Earl Jr. in 1930, Dorothy in 1931, Nina Elizabeth (known as Honey Bear) in 1933 and Robert in 1935. It was an extraordinarily close and loving family, retaining its sense of warm unity throughout the whole of Earl Warren's life.

THE FUNCTIONING OF OUR GOVERNMENTAL SYSTEM

Mr. HATHAWAY. Mr. President, over the last 10 years, a period during which I have served in the other body as well as this one, I have had the opportunity to observe and reflect upon the functioning of our governmental system. I have gradually reached the conclusion that the time has come to reexamine our present constitutional structure and consider changes in some of the institutions and institutional relationships that have evolved over the past 200 years.

Recent events have dramatically highlighted the swollen authority of the executive branch and the diminished role of the legislature. And the pattern of fragmented government we have seen over the past 30 years has resulted in a continuing inability to deal effectively with the problems that beset our people. Watergate and all its ramifications have, for the moment, obscured this fact. But the plummeting levels of respect shown by the ordinary citizens for all of their institutions and leaders indicate that the people know that something is fundamentally wrong.

The art of government, it seems to me, involves meeting the needs of the people—being responsive, while at the same time remaining under the control of those people—being accountable. We all learned in school that totalitarian regimes were often more efficient in the sense of being able to identify problems and act more decisively than democracies. But democracies, we learned, were accountable to their citizens, and this accountability was worth the price it cost in efficiency. But I would submit, Mr. President, that changes in the size and nature of our society and the resultant changes which have taken place in our institutions of government have produced a structure which in many ways fails both tests—it is neither responsive nor accountable. It is this situation we must seek to remedy.

I feel that the eve of our 200th birthday as a Nation is an appropriate time to renew the search for the secret of self-government. We will almost certainly find that the principles underlying the Constitution are still valid—but we may also find that there are governmental forms which will more successfully embody those principles. I am well aware of the risks involved in such an undertaking; but I have confidence in our people and feel that the present need and the potential for good of such an enterprise justify the acceptance of this challenge.

Mr. President, in the most recent issue of the New Yorker magazine, the editor makes some comments along the lines I have been suggesting. 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:

NOTES AND COMMENT

It is not often that one is tempted to date precisely the opening of an era. A remarkable article in the *Times* by Marvin and Bernard Kalb, however, tempts us to name Saturday, October 20, 1973, as the day when the political era that mankind is now living in began. It is an era characterized, if one is to judge from such a brief glimpse of it, by a nearly all-pervading and bottomless uncertainty—an uncertainty that includes doubts about the continuance of constitutional democracy in the United States, doubts about the fundamental health of the world economy, and the abiding, ever-present doubts about the survival of humanity in the nuclear age. On October 20th, the human race was in the opening stages of one of its periodic brushes with its collective mortality: four days later the United States would begin a worldwide alert of its armed forces, including its nuclear forces. In the Middle East, the Yom Kippur war was under way.

The Israelis had gone on the offensive, and the situation on the battlefield was fluid. In Washington, President Nixon was preparing to dismiss Special Prosecutor Archibald Cox. Secretary of State Henry Kissinger, who apparently had no inkling of the imminent dismissal of Cox and the resultant "firestorm" that was about to engulf the domestic scene, was airborne on his way to Russia, where he planned to talk over the situation in the Middle East with General Secretary Leonid Brezhnev. One of Kissinger's hopes, certainly, was to forestall the possibility of a nonmetaphorical firestorm that might engulf the whole world if things in the Middle East went further awry. While he was aloft, the Kalb brothers report, he received two messages of great importance. Each, in its own way, was like a warning shot signalling the advent of the new era. One was a message from the President, entrusting Kissinger with what the Kalbs call a "power of attorney" to make agreements with Brezhnev in the President's name. The President, preoccupied with his own survival, had temporarily handed the world's survival over to Kissinger; later it would be Kissinger who, acting under an even more sweeping grant of authority, would order the nuclear alert while the President remained virtually incommunicado on another floor of the White House. The second message was that Saudi Arabia had decided to impose an oil embargo on the United States. The oil crisis, which has threatened ever since to throw the world economy out of whack, was upon us, but for the moment, according to the Kalbs, Kissinger didn't give the matter much thought. Whether he knew it or not, the airborne Secretary of State, who now literally held the fate of the earth in his hands, had been buffeted in midflight by shock waves spreading out from two historical events of the first magnitude: the dismissal of the Special Prosecutor, which would precipitate impeachment proceedings by the House Judiciary Committee against the President; and the energy crisis, which would force the world to recognize that there were global limits to certain key resources. Yet the Secretary was probably in a worse position than most American newspaper readers to grasp the meaning of the events. He was puzzled by the President's sudden grant of authority. Not until he had left the Soviet Union and arrived in England (where there is a free press) did he see the enormous headlines from Washington and understand the gravity of the crisis at home and the extent of the President's preoccupation with it.

And not until some time after that was he able to turn his attention to the question of energy. The Secretary had been making decisions having a bearing on the future of the world, but at the time he did so he had been all but out of touch with the world.

The scene of Secretary of State Kissinger at thirty thousand feet on his way to Moscow receiving messages of tremendous but partly obscure import is one more vivid illustration, if any were needed, of the merging of all major events that confront the United States, whether they occur at home or abroad, into a single political field, which turns out, the impeachment inquiry notwithstanding, to be increasingly dominated by the executive branch. Not even a President is required for executive supremacy. When he is incapacitated for some reason, the Secretary of State can take charge. It is not the man that counts but the centralized machinery for making decisions and then carrying them out. If Secretary Kissinger's predicament on his way to Moscow shows who makes the decisions in our country, it also shows how they are made. The political structure within which we confront our uncertain future presents us with the anomalous fact that unimportant decisions are weighed carefully and at great length in open, democratic forums while the important decisions are made by a few men in secret. The Congress fully debates this or that detail of policy before taking any action—and the action is often overridden by a veto or by Presidential

impoundment. The President and his men, acting in virtual isolation, weave the broad pattern of national and global affairs. Each of these branches of government has become distorted. On the fringes of power, Congress sits like a bank of spectators. The pressure is low, the debate is close to frivolous, the actions taken are futile. At the center, the President and his men try to cope with an onslaught of events too vast for them to handle. The pressure is crushingly intense, the debate is often perfunctory, and the actions taken are sometimes reckless. We Americans have now organized things in such a way that our control is greatest where it matters least and is least where it matters most. The route of the school bus and the price of beef we deliberate with ponderous care and hedge about with restrictions. The survival of the world we suspend from a thread.

RETIREMENT OF ADM. ELMO R. ZUMWALT, JR.

Mr. THURMOND. Mr. President, I rise to bring to the attention of the Congress the retirement of Adm. Elmo R. Zumwalt, Jr., Chief of Naval Operations, who for 4 years brought bold leadership to the U.S. Navy.

When selected for this high position, Admiral Zumwalt was moved ahead of many higher ranking officers because of his outstanding record and leadership, demonstrated during a period of naval service which began following his graduation from the U.S. Naval Academy in 1942. Prior to his selection as CNO, he served as commander of the cruiser-destroyer Flotilla Seven and as director of systems analysis for the Department of the Navy in the late 1960's. Prior to that he had served in many important command and administrative positions both at sea and in Washington.

The period of Admiral Zumwalt's stewardship as CNO was one in which the Navy underwent possibly the greatest changes in its history. This was occasioned by a tremendous buildup in the Soviet fleet which occurred at about the same time that large numbers of U.S. ships had reached an advanced age.

Also, during this turbulent period he directed with skill the involvement of the U.S. Navy in the Vietnam War. The Navy was actively engaged in this conflict over a prolonged period of time and in a manner not previously experienced by our naval forces. At times our total military effort was being handled by the Navy and Air Force aircraft. His advice to the President as a member of the Joint Chiefs and his counsel in the Congress was respected and followed.

To counter the massive expansion program of the Soviet Navy he formulated new strategies and encouraged the design and construction of new types of ships and aircraft. Some of these included the hydrofoil and the surface effect ship, aircraft such as the vertical-takeoff Harrier and the F–14 fighter-bomber which has been hailed as one of the finest fighter aircraft in the world today.

Faced with the same fiscal constraints which beset all Government agencies, he evolved the carefully balanced "high-low" mix of forces which set the Navy on a new course. This policy involved a minimum necessary number of expensive, highly effective ships balanced against larger numbers of less expensive, selectively efficient units. He also took a truly bold step in approving the premature retirement of some older, marginally effective ships, to free moneys for diversion to accelerated production of new units.

In carrying out the duties of his office, Admiral Zumwalt, has stated his deep personal commitment to three basic goals. These were:

1. To achieve and maintain the highest level of combat effectiveness possible;
2. To maintain the good order and discipline that is essential to the accomplishment of that mission; and
3. To carry forward, promptly and faithfully a human goals effort designed to ensure that all members of the Naval service would enjoy true equality of treatment and freedom of opportunity.

In all of these, his performance, marked with dignity, humility and professionalism, has been outstanding. The Navy and the Nation stand in his debt.

Mr. President, I ask unanimous consent that the following items concerning Admiral Zumwalt be printed in the RECORD at the conclusion of my remarks: a biography of Admiral Zumwalt's career; an article entitled "Admiral Zumwalt, the Rarest of Breeds in the Navy" which appeared in the June 1974 issue of the Los Angeles Times; an article entitled "A Candid Conversation with the Controversial Chief of Naval Operations" which appeared in the June 1974 issue of Playboy magazine and an article entitled "Zumwalt Leaving His Changed Navy", authored by Bill Anderson in the June 28, 1974 issue of the Chicago Tribune.

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

BIOGRAPHICAL SUMMARY

Full Name: Elmo Russell Zumwalt, Jr.
Date of birth: 29 November 1920.

PROMINENT ASSIGNMENTS

Nominated on 14 April 1970 by President Nixon to serve as Chief of Naval Operations. Became CNO with rank of Admiral from 1 July 1970.

Served as Commander U. S. Naval Forces, Vietnam and Chief of the Naval Advisory Group, U. S. Military Assistance Command, Vietnam, from 1 October 1968 to 15 May 1970.

As Director of the Chief of Naval Operations Systems Analysis Group from August 1966 to August 1968, he organized and directed the Systems Analysis Division and served as Deputy Scientific Officer to the Center for Naval Analyses.

Served as Commander Cruiser-Destroyer Flotilla SEVEN from July 1965 to July 1966.

EDUCATION

1938—Valedictorian of Tulare High School, Tulare, Calif.

1939—Rutherford Preparatory School, Long Beach, Calif.

1942—Graduate of U. S. Naval Academy, Annapolis, Md.

1953—Naval War College, Newport, R.I.

1962—National War College, Washington, D.C.

OTHER HIGHLIGHTS

Served as Commanding Officer of the first ship built from the keel up as a guided-missile ship—USS DEWEY (DLG–14).

Was prize crew officer of captured Japanese gunboat ATAKA, captured at mouth of Yangtze River near end of WWII.

At age 44, the youngest naval officer ever promoted to Rear Admiral.

At age 49, the youngest four-star Admiral in U.S. naval history, and the youngest to serve as Chief of Naval Operations.

Married to the former Mouza Coutelais-du-Roche of Harbin, Manchuria, and has two sons and two daughters.

ADMIRAL ELMO RUSSELL ZUMWALT, JR., U.S. NAVY, CHIEF OF NAVAL OPERATIONS

TRANSCRIPT OF NAVAL SERVICE

29 Nov 1920—Born in San Francisco, California.

7 Jun 1939—Midshipman, U.S. Naval Academy.

19 Jun 1942—Ensign.

1 May 1943—Lieutenant (junior grade).

1 Jul 1944—Lieutenant.

1 Apr 1950—Lieutenant Commander.

1 Feb 1955—Commander.

1 Jul 1961—Captain.

1 Jul 1965—Rear Admiral.

1 Oct 1968—Vice Admiral.

1 Jul 1970—Admiral.

Ships and Stations

USS *Phelps* (DD–360)—From Jun 1942 to Aug 1943.

USS *Robinson* (DD–562)—From Jan 1944 to Oct 1945.

USS *Saufley* (DD–465)—From Dec 1945 to Mar 1946.

USS *Zellars* (DD–777)—From Mar 1946 to Jan 1948.

NROTC Unit, Univ. of No. Carolina at Chapel Hill, N.C. (Asst. Professor of Naval Science)—From Jan 1948 to Jun 1950.

USS *Tills* (DE–758) (Commanding Officer)—From Jun 1950 to Mar 1951.

USS *Wisconsin* (BB–64) (Navigator)—From Mar 1951 to Jun 1952.

Naval War College, Newport, R.I. (Student)—From Jun 1952 to Jun 1953.

Bureau of Naval Personnel, Washington, D.C.—From Jun 1953 to Jul 1955.

USS *Arnold J. Isbell* (DD–869) (Commanding Officer)—From Jul 1955 to Jul 1957.

Bureau of Naval Personnel, Washington, D.C. (Lieutenant Detailer)—From Jul 1957 to Dec 1957.

Office of the Assistant Secretary of the Navy for Personnel and Reserve Forces (Special Assistant for Naval Personnel)—From Dec 1957 to Nov 1958.

(Special Assistant and Naval Aide)—From Nov 1958 to Aug 1959.

USS *Dewey* (DLG–14) (Commanding Officer)—From Dec 1959 to Jun 1961.

National War College, Washington, D.C. (Student)—From Aug 1961 to Jun 1962.

Office of the Assistant Secretary of Defense for ISA (Desk Officer)—From Jun 1962 to Dec 1963.

Office of the Secretary of the Navy (Executive Assistant and Senior Aide)—From Dec 1963 to Jun 1965.

Commander, Cruiser-Destroyer Flotilla SEVEN—From Jul 1965 to Jul 1966.

Office of the Chief of Naval Operations (Director, Systems Analysis Division)—From Aug 1966 to Aug 1968.

Commander, U.S. Naval Forces, Vietnam and Chief, Naval Advisory Group, Vietnam—From Sep 1968 to May 1970.

Chief of Naval Operations—From Jul 1970 to Jul 1974.

Medals and decorations

Distinguished Service Medal with two Gold Stars.

Legion of Merit with one Gold Star.

Bronze Star with Combat "V".

Navy Commendation Medal with Combat "V".

Navy Unit Citation.

China Service Medal.

American Defense Service Medal with Bronze Letter "A".

American Campaign Medal.

Navy Occupation Service Medal.

National Defense Service Medal with one star.

Korean Service Medal with two stars.

Vietnam Service Medal with seven stars (1 Silver, 2 Bronze).

World War II Victory Medal.

Asiatic-Pacific Campaign Medal with seven stars (1 Silver, 2 Bronze).

Order of Military Merit (Korea) Third Class.

Order of the Rising Sun (Japan)—First Class.

National Order of Vietnam Medal—Third Class.

Vietnamese Gallantry Cross with Palm.

Vietnamese Navy Distinguished Service Order—First Class.

Philippine Republic Presidential Unit Citation.

Korean Presidential Unit Citation.

Republic of Vietnam Gallantry Cross with Palm Unit Citation.

Philippine Liberation Ribbon with two stars.

United Nations Service Medal.

Republic of Vietnam Campaign Medal with Device.

Gran Maestre De La Orden De Mayo Al Merito Naval (Argentina).

Naval Merit in the Grade of High Officer (Bolivia).

Medal of Grand Official of the Order of Naval Merit (Brazil).

Order of the Southern Cross, Degree of Grand Cross (Brazil).

Great Star of Military Merit of Chile.

The Order of Admirante Padilla in the Grade of Gran Official (Colombia).

Order of Merit of Duarte, Sanchez y Mella, in the Grade of Great Silver Cross (Dominican Republic).

Legion D'Honneur in the Rank of Commander (France).

Grand Cross—Second Class of the Order of Merit (Germany).

Grand Cross of the Division of King George I (Greece).

Jalasena First Class (Indonesia).

Grande Croce Del Ordine Al Merit Repubblica Italiana Medale (Italy).

Order of Orange—Nassau (Military Division) (Grand Officer) (Netherlands).

Knighthood Grand Cross of the Royal Order of the Sword (Sweden).

Naval Order of Merit First Class (Venezuela).

First Class Civil Actions Medal (Vietnam).

Order of National Security Merit Tong-Il (Korea).

Honorary degrees

Doctor of Law, Villanova University.

Doctor of Human Letters, United States International University.

Doctor of Public Service, Central Michigan University.

ADMIRAL ELMO RUSSELL ZUMWALT, JR., U.S. NAVY, CHIEF OF NAVAL OPERATIONS

Elmo Russell Zumwalt, Jr., was born in San Francisco, California, on 29 November 1920, son of Dr. E. R. Zumwalt and Dr. Frances Zumwalt. He attended Tulare (California) Union High School, where he was Class Valedictorian and the Rutherford Preparatory School, at Long Beach, California, before his appointment to the U.S. Naval Academy, Annapolis, Maryland, from his native state in 1939. As a Midshipman he was President of the Trident Society, Vice President of the Quarterback Society, twice winner of the June Week Public Speaking Contest (1940, 1941), Company Commander in 1941 and Regimental Three Striper in 1942, and participated in intercollegiate debating. Graduated with distinction and commissioned Ensign on 19 June 1942, with the class of 1943, he subsequently progressed to the rank of Admiral, to date from 1 July 1970.

Following graduation from the Naval Academy in June 1942, he joined the destroyer USS *Phelps*, and in August 1943 was detached for instruction in the Operational Training Command, Pacific, at San Francisco, California. In January 1944 he reported on board the USS *Robinson*, and for "heroic service as Evaluator in the Combat Information Center . . . (of that destroyer), in action against enemy Japanese battleships during the Battle for Leyte Gulf, 25 October 1944 . . ." he was awarded the Bronze Star with Combat "V." The citation further states: "During a torpedo attack on enemy battleships, Lieutenant Zumwalt furnished information indispensable to the success of the attack . . ."

After the cessation of hostilities in August 1945, until December 8th of that year, he commanded (as prize crew officer) HIMJA *Ataka*, a 1200-ton Japanese river gunboat with two hundred officers and men. In that capacity he took the first ship since the outbreak of World War II, flying the United States flag, up the Whangpoo River to Shanghai. There they helped to restore order and assisted in disarming the Japanese.

He next served as Executive Officer of the destroyer USS *Saufley*, and in March 1946 was transferred to the destroyer USS *Zellars*, as Executive Officer and Navigator. In January 1948 he was assigned to the Naval Reserve Officers Training Corps Unit of the University of North Carolina at Chapel Hill, where he remained until June 1950. That month he assumed command of the USS *Tills*, in commission in reserve status. That destroyer escort was placed in full active commission at Charleston Naval Shipyard on 21 November 1950, and he continued to command her until March 1951, when he joined the battleship USS *Wisconsin* as Navigator.

"For meritorious service as Navigator of USS *Wisconsin* during combat operations against enemy North Korean and Chinese Communist forces in the Korean Theater from 21 November 1951 to 30 March 1952 . . ." he received a Letter of Commendation, with Ribbon and Combat "V," from Commander Seventh Fleet. The letter continues: "As Navigator his competence and untiring diligence in assuring safe navigation of the ship enabled the commanding officer to devote the greater part of his attention to planning and gunfire operations. His performance of duty was consistently superior in bringing the ship through dangerously mined and restricted waters, frequently under adverse conditions and poor visibility. He assisted in the planning of the combat operations . . . (and) piloted *Wisconsin* into the closest possible inshore positions in which maximum effect could be obtained by gunfire . . ."

Detached from USS *Wisconsin* in June 1952, he attended the Naval War College, Newport, Rhode Island, and in June 1953 reported as Head of the Shore and Overseas Bases Section, Bureau of Naval Personnel, Navy Department, Washington, D.C. He also served as Officer and Enlisted Requirements Officer and as Action Officer on Medicare Legislation. Completing that tour of duty in July 1955, he assumed command of the destroyer USS *Arnold J. Isbell*, participating in two deployments to the Seventh Fleet. In this assignment he was commended by the Commander, Cruiser-Destroyer Forces, U.S. Pacific Fleet for winning the Battle Efficiency Competition for his ship and for winning Excellence Awards in Engineering, Gunnery, Anti-Submarine Warfare, and Operations. In July 1957 he returned to the Bureau of Naval Personnel for further duty. In December 1957 he was transferred to the Office of the Assistant Secretary of the Navy (Personnel and Reserve Forces), and served as Special Assistant for Naval Personnel until November 1958, then as Special Assistant and Naval Aide until August 1959.

Ordered to the first ship built from the keel up as a guided missile ship, USS *Dewey* (DLG–14), building at the Bath (Maine) Iron Works, he assumed command of that guided missile frigate at her commissioning in December 1959, and commanded her until June 1961. During this period of his command, *Dewey* earned the Excellence Award in Engineering, Supply, Weapons, and was runner-up in the Battle Efficiency Competition. He was a student at the National War College, Washington, D.C., during the 1961–1962 class year. In June he was assigned to the Office of the Assistant Secretary of Defense (International Security Affairs), Washington, D.C., where he served first as Desk Officer for France, Spain, and Portugal, then as Director of Arms Control and Contingency Planning for Cuba. From December 1963 until 21 June 1965 he served as Executive Assistant and Senior Aide to the Honorable Paul H. Nitze, Secretary of the Navy. For duty in his tour in the offices of the Secretary of Defense and the Secretary of the Navy, he was awarded the Legion of Merit.

After his selection for the rank of Rear Admiral, he assumed command in July 1965 of Cruiser-Destroyer Flotilla Seven. "For exceptionally meritorious service . . ." in that capacity, he was awarded a Gold Star in lieu of a Second Legion of Merit. In August 1966 he became Director of the Chief of Naval Operations Systems Analysis Group, Washington, D.C., and for exceptionally meritorious service . . . as Director, Systems Analysis Division, Office of the Chief of Naval Operations, Deputy Scientific Officer to the Center for Naval Analyses, during the period from August 1966 to August 1968 . . ." he was awarded the Distinguished Service Medal. The citation further states in part:

"Rear Admiral Zumwalt, by direction of the Chief of Naval Operations, established the Systems Analysis Division and rapidly developed it into a highly effective, responsive organization. Under his leadership, the division has assisted in generating within the Navy a better understanding of requirements, problems and a more effective presentation of those requirements in major program areas which will strongly influence the combat capabilities of U.S. Naval Forces through the next generation. (He) has displayed exceptional acumen, integrity, tact and diplomacy as personal representative of the Chief of Naval Operations, not only in dealings within the Department of Defense, but also in testifying before Congressional Committees. Among the major analyses completed under his direct supervision were the major Fleet Escort, Antisubmarine Warfare Force Level, Tactical Air, Surface-to-Surface Missile, and War-at-Sea Studies. Additionally, under Rear Admiral Zumwalt's guidance, the Center for Naval Analyses has been restructured, and its methodologies clearly defined with such precision as to ensure that completed studies will reflect thoroughness, comprehensiveness, and accuracy when subjected to closest scrutiny . . ."

In September 1968 he became Commander Naval Forces, Vietnam and Chief of the Naval Advisory Group, U.S. Military Assistance Command, Vietnam. President Richard M. Nixon nominated him as Chief of Naval Operations on 14 April 1970. Upon being relieved as Commander Naval Forces, Vietnam, on 15 May 1970, he was awarded a Gold Star in lieu of a second Distinguished Service Medal for exceptionally meritorious service. He assumed command as Chief of Naval Operations on 1 July 1970 and retired from that position on 1 July 1974.

Admiral Zumwalt's official home address is Tulare, California. He is married to the former Mouza Coutelais-duRoche of Harbin, Manchuria, and they have two sons, Elmo R. Zumwalt III, and First Lieutenant James Gregory Zumwalt, USMC, and two daughters, Ann F. Zumwalt and Mouza C. Zumwalt.

[From the Los Angeles Times, June 22, 1974]

ADMIRAL ZUMWALT, THE RAREST OF BREEDS IN THE NAVY

Historians should start now to assess the custodianship of our Navy by Adm. Elmo R. Zumwalt, who is retiring June 29 as chief of naval operations. He is clearly the rarest of

breeds in the Navy, the perfect iconoclast. He dared to rock the boat!

Reaction to this was predictable. Elder statesmen, free of responsibility and far from the fray, grew apoplectic and vilified him. On the other hand, the young who manned the fleet toasted him jubilantly and hailed him as a man who understood and respected them.

Specifically, the gentry charge him with heresy claiming he did not adhere to Navy's time-honored customs, traditions and practices. Guilty as charged. He did indeed discard many of these dead relics of the old Navy, notably those in the form of antiquated personnel management and administrative policies and practices, which are no less anachronistic today than the pigtail coiffure and the 13-button fly once in great vogue. In the vernacular they are best described as "Mickey Mouse." Also, they are no less irritating, frustrating and counterproductive today than we all found them a generation and more ago.

The fact escapes many of us that we have been inclined to perpetuate the status quo. At best, personnel and management standards are far in the wake of hardware progress made by science, technology and industry as it applies to the Navy.

It was clearly the time for Zumwalt with his imagination and progressive philosophy, especially in view of personnel complications stemming from the end of the draft and the low esteem the young in our society held for military service following the Vietnam war.

The progressive leadership and management policies he instituted recognized the changing times, the majority of our personnel, and their heavy burdens, responsibilities and sacrifices in carrying out the Navy's missions today. His policies have been successful in attracting and retaining the caliber of personnel the Navy needs.

Zumwalt's legacy is profound and enduring. He broke the shackles that bound our Navy to the past and retarded its forward progress. The progressive leadership he displayed was classical and exemplary for progressive times now and in the future.

Even old sea dogs must join young neophytes in saluting a man like Zumwalt with that rare combination of intellectual integrity, refreshing candor and daring moral courage; a priceless asset in any organization, who in good conscience and in the best interest of the Navy dared to ignore the commandment, "Thou shalt not rock the boat." It is deeds such as Zumwalt's that constitutes the Navy traditions in their best and truest sense, the type of tradition all generations of Navy men and women will observe and perpetuate.

FRANK A. ZIMANSKI.

CORONADO.

(NOTE.—Zimanski is a retired Navy captain who had served as director of personnel research—Ed.)

PLAYBOY INTERVIEW: ADM. ELMO ZUMWALT

A CANDID CONVERSATION WITH THE CONTROVERSIAL CHIEF OF NAVAL OPERATIONS

In its 198-year history, the United States Navy has had its share of colorful heroes. Never, however, has it had a head man as controversial as its present Chief of Naval Operations, Admiral Elmo Russell Zumwalt, Jr., an officer whose retirement this month at the end of his four-year term as C.N.O. will be greeted with decidedly mixed reactions in and out of the Service. "There's a good deal of indecision," admits Zumwalt, "as to whether I'm a drooling-fang militarist or a bleeding-heart liberal." For good reason. Admiral Zumwalt—who at 49 was the youngest man ever to be made Chief of Naval Operations—has been one of the nation's foremost salesmen for massive American military might. He is pushing for a fourth, billion-dollar nuclear-powered aircraft carrier at a time when some believe carriers are sitting ducks for modern weaponry; he supports immediate development of the new Trident submarine and missile system, when, says his opposition, a slower schedule would spread out the cost and produce a better craft. At the same time, Zumwalt has drastically overhauled barnacle-encrusted Navy regulations to humanize life for naval personnel and their families, thus winning the enmity of hard-line traditionalists.

Any attempt to understand this paradoxical man must start with the fact that Zumwalt's job requires him, along with his fellow Service chiefs, to rehearse war day after day, asking—and answering—such questions as: In a conventional war, could the U.S. Navy defeat the Soviet navy? Are America's atomic weapons systems powerful enough—and invulnerable enough—to deter the Soviet Union from attacking America? Years of studying such problems have convinced Zumwalt that the public is being taken in by myths, that we are presently in a state of military emergency. Our atomic arsenal, he says, does not have the capability of obliterating Russia. Our sea power is not vastly superior to Russia's. We are not spending a large enough fraction of our resources on defense. Over the long run, Russia is not interested in détente and coexistence. In fact, says Zumwalt, while our sea power diminishes rapidly—80 ships per year going out of service—the Soviet Union has been outbuilding the U.S. at the rate of three and a half to one for more than ten years. If these trends continue, he believes, Russia will soon—and decisively—be the number-one naval power on earth. Our resulting inability to control and use the seas will allow Russia to have a devastating impact on the U.S. economy, and that, thinks Zumwalt, will finish America as we know it.

Even more serious than its relative paucity of ships and planes, Zumwalt found on taking over as C.N.O., was the Navy's manpower problem. Fewer than ten percent of first-tour enlisted men were signing on for another tour of duty; furthermore, he felt the Navy was in danger of being "lily-white, racist." So he set about his famous program of "Z-grams," directives liberalizing Navy rules, and right away he raised hackles on the necks of all those retired admirals who have clotted around the palm-fringed beaches of Coronado, near San Diego. To their horror, Zumwalt's Navy permitted longer hair, beards and sideburns; allowed sailors to wear civilian clothes on base during off-hours; even installed beer dispensers in enlisted men's barracks. Service clubs now throb to acid rock; minorities, through their own Ombudsmen, have a direct line to commanding officers; and, in what may be the most revolutionary development of all, female sailors are going to sea alongside their male counterparts. To date, Zumwalt has originated 119 Z-grams in a determined effort to air out the tradition-bound Service that lived by the motto: "If it moves, salute it. If it doesn't move, pick it up. If you can't pick it up, paint it."

Today, four years since Zumwalt took office, re-enlistments are up to 23 percent for first-tour sailors and have risen from the 80s to 91 percent for career personnel. And 7.24 percent of the Navy is now black. But that development did not take place without incident; as the percentage of blacks increased, discrimination became more apparent and the blacks became more vocal. The carrier Kitty Hawk was wracked by a well-publicized battle between black and white sailors. Another fight took place on an oiler in Subic Bay, and 100 blacks and some 20 whites staged a sit-down strike on the carrier Constellation. Zumwalt's reaction was to tell the Navy, in effect, to try harder. "Equal," said he, "means exactly that. Equal."

The racial incidents, however, were just what the fleet of retired admirals had been waiting for. Arguing that his reforms had created an atmosphere of "permissiveness" that was leading to lax discipline, they set out to get Zumwalt removed. And they very nearly did. The admirals had the ear of men in Congress—even that of the President. Some telephoned reporters who covered the Pentagon. Others put so much pressure on Secretary of the Navy John Warner that he hinted publicly that he was not entirely sold on Zumwalt's revisions. But an investigation by a House Armed Services subcommittee into "disciplinary problems in the U.S. Navy" misfired, and the subcommittee couldn't come up with a single reason to keelhaul Zumwalt.

Today, his Navy has nothing more to offer Admiral Zumwalt. There's just no higher post available than the one he is leaving, so he'll return to the civilian life he left as a young man, 35 years ago. Nothing in his early youth had hinted at his eventual choice of career. He grew up in the little central California town of Tulare, where both of his parents were physicians; he always thought he'd be one, too. An A student in high school, he played tackle on the football team and was valedictorian of his class. Fortunately not too good to be true, he was arrested one Halloween for throwing eggs and pumpkins at passing automobiles. His sentence, to wash the dinner dishes for a month.

One night at the Zumwalts', an Irish friend of his father's spent an evening hypnotizing Elmo—mercifully called Bud—with yarns about the sea and life on whaling ships. So when Senator Hiram Johnson offered the young man a berth at Annapolis, he took it. A winner in debate at the Naval Academy, Zumwalt finished 34th in a class of 615—except in conduct, in which he ranked 275th. "There were an awful lot of well-disciplined members of my class," says the admiral. To this day, he's more impressed by simple courtesy than "chicken protocol." "He's the only senior officer I know," says a colleague, "who always apologizes when he interrupts anyone, no matter how low his rank."

Zumwalt's first sea duty was aboard the destroyer Phelps, where a superior's report said, according to Zumwalt's recollection

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good officer, but it is difficult to tell, because he was seasick for the first three months." Once he got his sea legs, Zumwalt rose in the Service, winning a Bronze Star during the battle of Leyte Gulf and finessing a postwar "occupation" of Shanghai by sailing up the Yangtze and Hwang Pu rivers and bluffing thousands of Japanese troops—who, as he put it, "hadn't quit yet"—into disarming. While in Shanghai, he met a beautiful French-White Russian girl, Mouza Coutelais-du-Roche, feigned an avid desire to learn Russian and, after five weeks of lessons, married the lady. They live today with their youngest daughter, aged 16, in the C.N.O.'s official residence, an enormous Southern mansion on the grounds of the Naval Observatory off Embassy Row in Washington. Another daughter is in college, a son is a Marine first lieutenant and another son is an attorney.

At work, Zumwalt is regarded as a computer. Nothing interrupts its steady whir, the constant blinking of its tiny lights. One time, walking down a corridor while making a point to a companion, Zumwalt turned off too soon, opened the door to a mop closet, walked into it, walked out—and never missed a beat in his discourse. So constantly engaged is his mind that his wife has to lay out his clothes for him in the morning or he would don whatever first came to hand—

as he did once when he appeared wearing a civilian tie with his naval uniform. At a meal, he automatically eats whatever is put in front of him, no matter what or how much or how little.

Zumwalt's aides like to have his schedule timed to the minute, because a quarter hour of Zumwalt left to himself can mean two weeks' worth of deciphering and carrying out instructions written out in a nearly illegible scrawl on a yellow pad. The admiral takes home two to four bulging briefcases every night, works until one A.M., is back at his office by seven in the morning. The only time the computer shuts off is during Zumwalt's two-mile morning run, rain or shine, around the observatory grounds. At 175 pounds, he is under his playing weight as tackle at Tulare High School.

A sizable fraction of the C.N.O.'s time is spent traveling around the nation, speaking to civilian gatherings and spreading his word about the state of the U.S.-Russian face-off. It was on one such expedition—a morning round trip to Miami to address a National Maritime Union convention—that free-lance writer Richard Meryman interviewed Zumwalt for PLAYBOY. "We flew out of Andrews Air Force Base," recalls Meryman, "where I met the admiral beside the plane, a converted Navy bomber. It had rained that night and slicks of water on the runway gleamed in that first, barely blushing light of dawn. It brought back

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ensign in World War Two—the sense of adventure, of male camaraderie in the tail end of the night.

"As the plane took off, I sat in one of two cramped seats across a small folding table from the admiral. In his bulky olive-green flight jacket, he seemed to fill the tiny cabin. There was an eagle quality about him: the beetling eyebrows, the graying hair, the face with that slight gauntness of a disciplined man in superb physical condition. One hand a sense, in this cramped capsule rocketing through the air, of invisible lines going out from him to all those engines of destruction, to all those men and ships whose capabilities are so appalling—and so comforting.

"As we talked, it became clear that Zumwalt would turn out to be a unique interview subject. His answers were precise, complete, categorical—and it seemed unlikely that I could come up with a question for which he did not already have a response fully formulated. No matter how challenging, even offensive my questions, there was always a feelng in the air that the two of us were waging a game: Could I trip him up, or had he plugged all the holes? Each time I did succeed in leading him out onto thin political ice, he would transparently evade the question—and smile. He also had a way of grinning at the anomalies his positions seemed to create. At one point, after proclaiming that 'the Hanoi regime stays in power by merely shooting dissidents and brainwashing the survivors,' he asked off the record, 'How does that fit in with my liberal, permissive image?' I began to feel a little sympathy for any Congressman who had to take him on.

"After a while, it became clear to me that Zumwalt himself sees no inconsistency between his hard line and his liberal stances. At the center of this man are both idealism and an inexorable, kiln-dried logic. Given the facts as he sees them, both Z-grams and massive naval power seem eminently sensible. And as the interview proceeded, I also saw that the rather steady drizzle of criticism that falls on the C.N.O. had left him both bemused and impatient. 'Sometimes,' he said at one point, 'I get pretty frustrated by the seemingly endless constraints through which one has to wend his way.' Significantly, the one time he got angry was not when I challenged his morality for serving in Vietnam (where he commanded U.S. naval forces before being summoned to his present job) but when I alleged that, when figuring the price of an aircraft carrier, one must include the cost of all its necessary support ships. 'That's just so irrational and illogical,' he replied, 'that it's infuriating to even have to deal with it.' Nevertheless, the cost of those support ships—and other items in a defense budget that to many observers is something that must be discussed. So I started the interview by talking about money."

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PLAYBOY. Admiral, the Pentagon has been under persistent attack over its allegedly inflated budgets for superfluous weaponry—particularly for nuclear arms when we already have the power to destroy Russia several times over. How can such extravagant expenditures on overkill be justified?

ZUMWALT. Overkill is a very misused word—one of those simplifications that get wide circulation. The fact is that it's absolutely wrong to say we have the capacity to destroy Russia several times over. Even if we fired our entire nuclear arsenal *first*—which we would never do—a viable society would survive in Russia.

PLAYBOY. We wouldn't reduce Russia to rubble?

ZUMWALT. No. We would destroy many Russian cities and we would kill millions of Russians in a kind of Armageddon that's almost frightening to discuss, and we believe they consider that unacceptable destruction. But a much larger fraction of the Soviet population is outside the cities than is the case in the United States. And not every one of our warheads would reach its target, in any event. Many would be shot down in the aircraft attempting to deliver them and some missiles would malfunction. And, as I said, we would be firing only in retaliation—*after* the Russians had had a chance to destroy our weapons on the ground. Our entire missile strategy has been based on second-strike capability; it was the conventional wisdom of the Sixties that we should settle for a capability to wound the Soviets so grievously in a second strike that they would never attack us first.

PLAYBOY. But there have been recent reports that our missiles are being redirected—at enemy military targets rather than population centers. Is this strictly a humanitarian move, or does it imply a change in emphasis, away from a second strike at cities in the direction of a first strike at missile silos?

ZUMWALT. That is a question of policy being worked on at the highest levels of Government, and it would not be proper for me to attempt an interpretation of it.

PLAYBOY. *Could* we strike first, in the unlikely event we wanted to?

ZUMWALT. At this moment, I consider that the Soviets have a possible first-strike capability, whereas we do not.

PLAYBOY. Exactly how do we stack up with the Russians?

ZUMWALT. The Soviets have applied the strategy of Attila the Hun—destroy and scorch the earth—to their nuclear weapons. They have gone in for huge megaton weapons that will sow thousands of square miles of land with radioactivity, leaving it absolutely uninhabitable. If they maintain their present building program, the Soviets will have by 1980 roughly 7000 one-megaton or larger warheads on their land-based systems. One megaton equals 1,000,000 tons of TNT. The Soviets are also improving their accuracy. So, in a first strike, they will have the capability to destroy our land-based missile systems almost totally.

We, on the other hand—believing that both sides should be rational—have developed warheads that deny ourselves such widespread effects of radio-activity. We have only 3000 land-based missiles, and these have much smaller warheads—averaging about 170 kilotons, one kiloton being tons of TNT, only 1/1000 of a megaton. Since these warheads are so small, they would have to be extremely accurate, score virtually direct hits—in order to destroy Russian missile silos. All this means, among other things, that the U.S. must concentrate vigorously on the *survivability* of its systems, and we simply cannot afford to take any risk with our sea-based missiles.

PLAYBOY. But wouldn't our missiles and bombers be in flight before their missiles arrived?

ZUMWALT. Russian Yankee- and Delta-class nuclear submarines, with their 1300- and 4000-mile-range missiles, are constantly in position off our East and West coasts. They are within range of even the farthest U. S. targets. A missile can travel approximately 11,500 miles per hour, so there would be very little time to get anything of ours aloft.

PLAYBOY. But wouldn't there be enough time? Surely the President has the capacity to trigger within seconds the launching of our missiles and bombers.

ZUMWALT. That's true, but there is only a very critical interval of a few minutes. Those bombers that are on alert could get off, and as we get the new B–1 bombers, they will be able to take off even faster. But the amount of time available is diminishing by a significant factor as more and more Soviet missile submarines are deployed off our coasts.

PLAYBOY. But what about our ICBMs? Wouldn't they all be launched almost instantaneously?

ZUMWALT. Put yourself in the position of a President of the United States who receives a report that missiles are en route. First he asks himself, "Is this an accurate report?" Second he asks for a recheck to make absolutely *sure* it's an accurate report. About that time, the missiles arrive.

PLAYBOY. But even so, the destruction wrought by our own bombs, the ones that get through, would be so great—every one being more powerful than what fell on Hiroshima—that seemingly very few would need to get aloft to inflict what the Russians would consider unacceptable damage. And we have tremendous numbers of them. A publication called *The Defense Monitor*, widely circulated on Capitol Hill, states that the U. S. now has 7100 atomic weapons, as against 2300 for the Soviet Union. And it says our goal for 1976 is 10,000 weapons.

ZUMWALT. I don't recognize those figures. That publication is put out by a retired rear admiral named La Rocque, and its data is not consistent with any analysis done by any respectable organization. Some of it can most charitably be described as distortion, apparently designed entirely to achieve major reductions in the defense budget, regardless of the facts.

I suspect that the figures you quote fail to distinguish between numbres of missiles and numbers of warheads. It's true that we have a larger number of multiple warheads in our MIRV program—Multiple Independently Retargetable Vehicles. Our missile posture relative to the Soviets is controlled by the first Strategic Arms Limitation Agreement, called SALT I. That gives the Soviets a 41 percent superiority in land-based missiles, a 34 percent superiority in sea-based missiles and a 50 percent superiority in strategic submarines. We, in turn, have a MIRV advantage that gives us a 104 percent superiority in total number of warheads. That, however, is only temporary, because MIRV wasn't included in SALT I. So we will be overtaken rather rapidly now that the Soviets have tested their MIRV capability on their four new ICBMs, which they will begin to deploy by 1975.

PLAYBOY. You make it sound as though we came out on the short end in SALT I.

ZUMWALT. We were able to get a treaty on

the defensive, anti-ballistic-missile side, since we were ahead of the Soviets in that area. On the offensive side, they were willing to go into a five-year freeze on strategic missiles while they did the research and development necessary to eliminate our technical superiority, both offensive and defensive. And I supported giving them superior numbers of missiles. They were building at an impressive rate and we were doing almost nothing. It was simply the best deal that could be gotten under the circumstances.

But the President, the Secretary of Defense and the Joint Chiefs of Staff all agreed that the deal made sense only if we built sufficient *offensive* nuclear weaponry to make it clear that we were going to stay equal with them, whether or not there was any SALT II agreement. So what is now going on is a very complex military-political game in preparation for SALT II. If we're willing to demonstrate an intention to match the Soviet Union one way or another, they will probably be rational about taking the least expensive route to parity; i.e., an agreement. That's why it's so crucial to return the Trident submarine program to its original schedule and to move ahead with the development of the Air Force B–1 bomber.

PLAYBOY. Despite everything you say, one cannot escape the feeling that all these new programs—offensive and defensive—and all these additional missiles are dangerously redundant as well as wasteful. How much deterrent is enough; where do we draw the line?

ZUMWALT. I can only repeat that, because we will never strike first, the question isn't so much one of numbers of missiles as of survivability. How much can the Russians destroy in their first strike? How much can we destroy as their defenses get more and more sophisticated?

PLAYBOY. Are our current Polaris submarines, with their Poseidon missiles, capable of inflicting enough damage on the Soviets to deter them from a first strike against us?

ZUMWALT. If nothing but the Polaris subs survive, it would really depend on the numbers of our Poseidon missiles that penetrate the Soviet defenses. That, in turn, would depend on whether or not the Soviet Union had been successful in cheating with regard to the anti-ballistic-missile treaty. It would also depend on whether or not the Soviets had developed the technology to track our Polaris submarines—a capability they do not now have.

PLAYBOY. But the Polaris can circle the globe without surfacing and hide in 3000 square miles of ocean while in range of Russia. How invulnerable can you get? Why do we even need the new Trident submarine?

ZUMWALT. Today the Polaris isn't vulnerable at all: But its noise level is based on the technology of the Fifties. In view of the increasing vulnerability of land-based missiles and the increase of Soviet-warhead size and accuracy, we can't risk letting the Polaris system become vulnerable through as-yet-unforeseen Russian technological developments. A new system that is quieter and has a longer-range missile will be much more secure in the Seventies and Eighties.

PLAYBOY. Do you expect the Soviets to try to cheat on the ABM treaty?

ZUMWALT. Yes, I do. Though at the present time our intelligence apparatus has no information that they *have* cheated, the Soviets have never failed to cheat when they believed they could get away with it.

PLAYBOY. Do the Russians consider us honest—and, if so, do they consider that a sign of weakness?

ZUMWALT. I have no way of knowing what the Soviets really think. But I do believe that under their ideology, they consider the free and democratic way of life to be somewhat naïve and foolish. And I'm confident of one thing: that the Soviets believe, as I do that it's impossible for the United States to cheat. In our free and open society, any American policy decision to cheat, however unlikely, would be detected very quickly not only by the Soviets but by our own media. The Soviets have complete access to our free press, to published report of Congressional hearings, to chamber-of-commerce literature—and they can simply get into a panel truck and drive out and look. At the same time, neither we nor the Russian people have a good way to find out what's going on in the Soviet Union.

PLAYBOY. Can't our highly touted CIA find out?

ZUMWALT. I think the capability of the CIA and all the rest of the intelligence community who would check on Soviet cheating is far from perfect, whereas the Soviet capability to know what we are doing is almost perfect.

PLAYBOY. In light of that, and of what you consider the Soviet willingness to cheat, could any supervisory system ever be devised that could give us complete security in a disarmament treaty?

ZUMWALT. Yes. The simplest test of all: on-site inspection.

PLAYBOY. But suppose the Soviets concealed some sites from us—say in remote areas of Siberia or the Urals.

ZUMWALT. Our agreements for on-site inspection would have to authorize a certain number of visits per year at the option of the inspector, the limitation being to prevent the inspection from just being open harassment or an effort to gain industrial intelligence. Let's assume that we're talking about anti-ballistic-missile systems that had been fabricated and laid away for sudden deploying. If all other intelligence means couldn't reassure us that the warehouses were innocent, we might want to inspect those areas. The same would be true for missile silos, and so forth. But this is all a very theoretical thing, because there is no discussion of any inspection at the present time.

PLAYBOY. Many people in America—even on Capitol Hill—believe that rigid inspection may not be necessary, that Russia is no longer out to bury the U.S., that the Soviets want a peaceful, stable world as much as we do. They believe that continued military build-up simply feeds our mutual paranoia, that if we stopped building arms, the Russians would stop, too.

ZUMWALT. Back in 1962, at the 18-nation disarmament conference at Geneva, the head of the Soviet delegation, Ambassador Zorin, gave an impassioned speech using the classic pseudoidealistic line of Moscow: "Let's disarm overnight. Let's both destroy our nuclear weapons immediately and we'll enter a bright new peaceful world"—without any regard, of course, to how one side would check on the other. So, during the coffee break, I said to Ambassador Zorin, "Let's assume that both sides in good faith proceeded to destroy every missile and nuclear warhead they had. And let's assume that quite by accident the Soviet Union discovered later that it had overlooked 100 missiles with nuclear warheads. What do you suppose would happen?" The ambassador came back with what I consider a very honest answer from one professional to another. He said, "First we would tell you that we had found them. Then we would deliver our ultimatum."

PLAYBOY. But at this time of *détente*, is there any proof that Russia is still as expansionist as it once was?

ZUMWALT. Russia's Communist *ideology* is expansionist. Brezhnev, in his private discussions with the Communist leadership in the Warsaw Pact, has said—and this has been confirmed by our own intelligence sources—that "we Communist have got to string along with the capitalists for a while. We need their agriculture and their technology. But we're going to continue massive military programs, and by the middle Eighties we will be in a position to return to a much more aggressive foreign policy designed to gain the upper hand in our relationship with the West."

PLAYBOY. In view of the President's interest in *détente* with Russia, is there a new, olive-branching Nixon, risen phoenix like from the fire-breathing anti-Communist Nixon?

ZUMWALT. No military man should try to evaluate his Commander in Chief. But I happen to think his policy of *détente*, coupled with his policy that *détente* can be achieved satisfactorily only if we maintain military superiority, is a good policy.

PLAYBOY. If the Soviet Union is so aggressive, why is Nixon so eager to establish most-favored-nation trade arrangements? And weren't we being patsies to supply Saudi Arabia with Phantom jets when they've blackmailed us by refusing us oil? Aren't we being suckers all around?

ZUMWALT. Regarding Saudi Arabia, these programs were initiated before the oil embargo. So the policy question was whether to drive them further into cement and tempt them to offer their long-term friendship elsewhere, or to continue to work with them on their naval-expansion program while negotiating with them to solve our oil difficulties. I think the President's trade policy toward Russia is based on the judgment, which I share, that it's a safer world if the United States and the Soviet Union are striving, however imperfectly, to dampen down the competition between them and to have as many points of agreement and cooperation as possible. I also believe that the trade arrangements are a carrot during times of good Soviet behavior, and the threat that such arrangements could be broken is the stick to discourage bad behavior.

PLAYBOY. Do you believe that the Soviets' grand plan is really along the ominous lines described by Brezhnev in his recent discussions with other Communist leaders?

ZUMWALT. I think the Soviet Union regards the ideal world as one in which states move gradually from a free-world orbit into states as client states. And toward that end, I think the Soviets want a clear superiority in strategic and conventional military power. When we had clear superiority, there were times like the Cuban Missile Crisis when we marshaled our power to protect our vital interests and required the Soviet Union to back down. With their much more aggressive foreign-policy design, it seems naïve to assume that, when the Soviets achieve conventional military superiority, they won't use their power in similar fashion.

PLAYBOY. Does America still have conventional military superiority?

ZUMWALT. Admiral Moorer, the Chairman of the Joint Chiefs of Staff, has stated in unclassified testimony that the Soviets have a significant capability today to interdict our sea lanes. I agree with that. And I think that that statement is an *upper* estimate of our capabilities. Since the Cuban Missile Crisis, the Soviets have embarked on the most massive nuclear strategic building program in history. At the same time, they've built three and a half times as many ships as we have—including an aircraft carrier, cruisers, destroyers, submarines, amphibious ships and auxiliary ships. During the past five years, the U.S. Navy has given up more than 400 ships, a net reduction of 80 ships per year, and will drop to 511 ships by the end of the fiscal year 1974. Of that, 30 percent need replacement as soon as possible. If this pattern continues, it's absolutely unarguable that the trend lines of U.S. and Soviet naval capability are going to cross.

PLAYBOY. Is it possible that they've intersected already?

ZUMWALT. I think it's better for me not to answer that question for the public record. I've given my views to the committees of Congress.

PLAYBOY. When Admiral Moorer says that the Russians have a "significant" capability to interdict our sea lanes, what does that mean to you?

ZUMWALT. It means that the question is now uncertain as to whether or not we could control and use the sea lanes in a crisis—uncertain whether or not we could reinforce our allies in Europe or in Japan, uncertain whether we could keep our overseas imports moving across the seas. And I believe that, despite the massive energy-development program now being launched, our appetite for energy is growing so rapidly that we will be requiring about 50 percent of our oil from overseas in 1980. And at this moment, 69 of our 72 critical raw materials come to us by sea.

PLAYBOY. But if the Soviets cut our sea lanes, isn't that war?

ZUMWALT. As long as one side is clearly superior and both sides know it, one side will back off. It's during that period of uncertainty, as the trend lines cross, that we have to be very uncomfortable. One side might *believe* that the other side recognizes its superiority, but the other side might not agree and refuse to back down.

PLAYBOY. Could you give a hypothetical scenario of how Russia plans to bring about domination?

ZUMWALT. I think it will be by a series of salami slices in which they take a stand, or change the political orientation of a nation, and we feel unable to do anything about it. Let's assume that it's 1980 and present Soviet strategic building programs—and our own limited programs—have continued at their current levels. That means the Soviets will probably have strategic superiority—greatly superior numbers of missiles, greater megatonnage, superior throw weight and more warheads—because they will have had time to deploy all their MIRVs. And if Soviet naval building programs continue, they will have maritime superiority as well. With half our oil still coming from the Middle East, it's clear that the Soviets would have a great temptation to tighten their hold on that jugular.

Now, let's assume that in a Middle East nation, a socialist rebel faction, beholden to the Soviets, is threatening to take over the government. The legitimate, friendly regime has asked our help. Our decision would be whether or not to support our friends and try to break through, knowing that if the Soviets take us on with conventional power, we would lose or be forced to escalate to nuclear weapons. And, of course, the Soviets would give us a graceful, face-saving way to back down.

PLAYBOY. What would that be?

ZUMWALT. If I were the Soviets, I would assure the U.S. that if it would accommodate to this change in regime, I would ensure the uninterrupted flow of oil. Then, as soon as I had the situation fully shaken down and stabilized, I would begin to raise the price of oil a little bit at a time. I would continue at just the rate necessary to ensure that the economy of the U.S. was kept very unstable. I would always get the U.S. to accommodate to each new act of economic aggression before going on to the next—until I was in a position to dictate whether or not America had access to world markets.

PLAYBOY. In a situation like that, wouldn't there be a public outcry for military intervention if necessary?

ZUMWALT. Yes, in the scenario I've described, there would be a very strong chauvinistic demand on the part of our public to go in at any price. This would happen after several confrontations in which we had backed down—and the nation was beginning to get very, very cold and the economy very, very bad. It would then be the responsibility of the top leadership to make it clear to the nation that we lacked the military capability to win.

PLAYBOY. In the alert against Russia during last year's Middle East crisis, were we really prepared to go to war with Russia, on the assumption that we could win?

ZUMWALT. I can't answer that. I don't participate in that process. That's a decision for the President himself.

PLAYBOY. If that alert wasn't just a Nixon political ploy, how close were we to war?

ZUMWALT. It was unquestionably an authentic alert—a DEFCON 3 alert, third in the hierarchy of alerts.

PLAYBOY. Was this confrontation on a level with the Cuban crisis?

ZUMWALT. The Cuban crisis was of longer duration and was one in which the relative power balance was so clearly in favor of us, and so clearly recognized by both sides, that I don't think there was as much inherent danger as there was in this one. This time the power balance wasn't as clear to everybody on both sides.

PLAYBOY. In a sense, the Israeli-Arab war was a laboratory test of what our arms would do against Russian-made weaponry if we decided to go up against the Soviets. In that conflict, some people feel the Russians came up with technology we couldn't match, most notably their Sagger antitank missile, which is visually guided by a wire that unreels from the launcher.

ZUMWALT. There was much to be sober about in that conflict. But the most important sobering feature, I think, was the prolific quantity of equipment that the Soviets were able to provide. That was something we couldn't do, given the state of readiness of our forces and inadequate funding. The second most important feature of that conflict was the obvious confidence that the Soviets must feel about their own military position to be able to give so prolifically and take the resulting hazards. Remember that for several years, we were spending 20 to 30 billion dollars in Southeast Asia, while the Soviets were able to devote that much money plus everything else they were investing, to their hardware.

PLAYBOY. But in terms of specific weaponry, how did we stack up?

ZUMWALT. There were some areas in which the Russian technology was surprisingly good—such as the antitank missile you mention. We were also impressed by their SAM ground-to-air missiles, though no comparison was possible, since we had none of *our* missles over there and their aircraft didn't get close to any Israeli missiles. But there were other areas in which U.S. technology was clearly superior. For instance, the Israelis were flying our F-4s and A-4s, which dramatically outperformed the Soviet-provided aircraft-weapons systems.

PLAYBOY. Did the Arabs have the most sophisticated planes that the Soviets have developed?

ZUMWALT. No. Nor did Israel have the most sophisticated U.S. aircraft.

PLAYBOY. You mean the F-14. But isn't it true that the F-14, when it becomes operational, won't even equal the best fighter Russia has right now?

ZUMWALT. No. The missile system of the F-14 is undoubtedly the best tactical missile system in the world today. And its fire-control system is the best in the world today. The airplane is the world's best fighter, and will be for many years. Which is very fortunate, since it's the first new fighter aircraft this country has produced in nearly 19 years.

PLAYBOY. Hasn't there been considerable criticism about the amount of money the plane has cost, the delays, the bugs during development?

ZUMWALT. I disagree with those allegations. First, we're spending less money on the F-14 than we would have to spend for an equally effective alternative. Within the altitude range of the existing F-4, the F-14 is three times as effective. So we are forgoing the procurement of three times as many F-4s and reducing the number of carriers and the military personnel in the Navy by virtue of having the F-14. And above 80,000 feet, there is no equally effective alternative to the F-14 and its Phoenix missile system. It's the only aircraft that can reach up and get the Russian Foxbat flying above 80,000 feet. There *have* been development problems in the F-14, as there are in any project—but relative to most systems, they're minimal. The only problem has been Grumman's fiscal survivability.

PLAYBOY. Why should the American public have to pay—in taxes—for Grumman's inefficiency, its inability to build the F-14 within its low bid, below McDonnell Douglas Corporation's?

ZUMWALT. Because of inflation and loss of business base, Grumman lost money on each of its five annual deliveries. That meant a corporate loss of some $85,000,000 before the contract was revised to keep them from going bankrupt. Douglas couldn't possibly have taken over at that point and produced the F-14 without a loss of a number of years, and we were already behind the Soviets in fighter capability by a significant factor. This decision made it possible for the U.S. to regain its capability to control and use the seas through naval air power.

PLAYBOY. You've been quoted as saying that the U.S. fleet is the key obstacle to Russian ambitions for world domination. Why is that?

ZUMWALT. Because man has still not learned to walk on water, and the one man who did wasn't able to carry enough logistical matériel to support a military effort overseas. Russia can fly only a limited quantity of men and matériel. Some six percent of all our millions of tons to Southeast Asia, for example, went by air. The other 94 percent had to go on the surface of the sea.

PLAYBOY. We've been discussing only Russia. What about China? When will it become a factor in the world military equation?

ZUMWALT. I think the long-term national goal of the Chinese is to be a primary superpower and to begin the process of changing uncommitted nations to client states. It's going to be a good 20 to 25 years before they can begin to use the same salami-slice confrontation technique against us. But China will be a naval threat to Japan considerably sooner.

PLAYBOY. What is China's short-term goal?

ZUMWALT. I see no evidence that the Soviet-Chinese antagonism is going to ease. I think China's immediate goal is to survive against what it perceives to be a very serious threat from the Soviet Union—from the much better equipped armies and tactical air force arrayed along the Chinese border. And I think it fears Russia's overwhelming strategic nuclear power. So at the present moment, the interests of the People's Republic of China vis-a-vis the Soviet Union converge sufficiently with our own that they have tended to be more helpful than harmful since the President's visit to Peking.

PLAYBOY. That vision of America, Russia and China elbowing one another to gain primacy is rather terrifying.

ZUMWALT. That's why it's so terribly important that we maintain military superiority along with *détente*.

PLAYBOY. But at the same time, isn't there a terrible dilemma over allocation of what is a finite quantity of resources? A very large number of Americans feel that if we don't stop spending so much money on defense,

there will be no America the beautiful left to defend.

ZUMWALT. I think it's a question of how much life insurance a nation should buy in order to preserve its way of life. We're talking about spending less than six percent of our gross national product on defense—less than six percent of the total value of all goods and services the country produces in a year.

PLAYBOY. But whatever happened to that peace dividend we were told would come when the Vietnam war was over?

ZUMWALT. I think the idea that there has been no peace dividend—and that defense budgets continue to grow—has been one of the greatest misconceptions in this country. In the last several years, the fraction of our Federal budget spent for defense has dropped from around 55 percent to less than 30 percent—nearly a 50 percent reduction. We are spending 33 percent less on defense than we were at the height of the war. Meanwhile, expenditures for human resources have gone from around 30 percent to nearly 45 percent—a 50 percent increase. I might add that I think we've gone too far. We've gone beyond a peace dividend to a point of absolute imprudence.

PLAYBOY. In one of your speeches, you said that many social programs haven't paid off in terms of results. Did you mean to suggest that we should spend more money on weapons because the social programs aren't getting us anywhere?

ZUMWALT. No. My point is that defense expenditures—which are lower, in terms of percentages of the Federal budget, than at any time since 1950—get an overwhelming degree of scrutiny, first by those responsible for producing cost-effective systems, and second by all the critics of defense expenditures. And I firmly believe that we've wasted billions in domestic programs that haven't made a contribution nearly equivalent to the money spent—and in some cases have been counterproductive. There seems to be a point of view that if you just increase the amount of money, the program is going to get better.

PLAYBOY. But didn't Eisenhower warn of defense expenditures' being inflated by a military-industrial complex?

ZUMWALT. I think that was an artful speech, written by a good speechwriter, which came across his desk at just the right time and has achieved much more acclaim than was really due.

PLAYBOY. Once we've bought a vast military capability, doesn't that tempt us to use it—to get drawn into foreign confrontations that could become new Vietnams?

ZUMWALT. It's quite clear that if you don't have the military power, you can't get involved. It's also quite clear that you can't defend yourself. We can't afford that.

PLAYBOY. But isn't there already too much American presence abroad?

ZUMWALT. It's a simplistic slogan that we've become the world's policeman. Our leadership is simply trying to assure preservation of our way of life and economy. And the fact is that the American presence abroad has gone down dramatically. We ended World War Two with something like 1100 major overseas bases; we're down to about 50. Our ability to apply power overseas is shrinking at an impressive rate. And the Soviets' is going in just the reverse direction as they acquire access to bases in Egypt, Iraq, Somalia, Yemen, India. So if your theory is right, you should be very reassured. And if my theory is right, then there is great cause for concern.

PLAYBOY. One of the prime instruments used to proclaim an American presence is the aircraft carrier. In a speech, you went so far as to say that if the carrier can't survive. America can't survive. Surely that's an enormous overstatement.

ZUMWALT. It's an absolutely correct statement. It's really all so simple, you just want to cry. A carrier is a floating sovereign airfield whose purpose, besides reinforcing our allies' and our own forces overseas, is to protect the sea lanes from air attack and to help protect them from submarine attack. If the aircraft carrier can't survive to do that, then America can't continue to bring in by ship almost all of its critical resources or reinforce our allies or evacuate U.S. forces.

PLAYBOY. Why can't the sea lanes be protected by land-based aircraft?

ZUMWALT. Because land-based air power simply doesn't have the range to protect the middle of the oceans. Nor can land-based planes in Europe be counted on to apply power overseas. NATO nations will not necessarily allow us use of their airfields—or even overflight rights—to support a non-NATO confrontation. Incidentally, a number of the Senators who had spoken strongly against carriers were in touch with the Pentagon urging their deployment in support of Israel during the Middle East crisis.

PLAYBOY. There is a school of thought, which includes many members of Congress, that aircraft carriers are dinosaurs out of the past, "floating coffins" completely vulnerable to modern weaponry.

ZUMWALT. The vulnerability of aircraft carriers is, I consider, one of the most dramatically misstated assections in the body politic today. I think you have to ask yourself: Relative to *what* are they vulnerable? In a nuclear war, every important fixed target—New York, all Strategic Air Command bases, virtually all fixed missile-launching facilities—would be destroyed. Some ships, however, would survive. It's just that much harder to hit a moving target. I'd rather be on a carrier bridge than on any land target when the missiles start to fly. But let's consider a conventional war. In the Southeast Asia war, our aircraft carriers went into the Gulf of Tonkin, surrounded on three sides by hostile or potentially hostile territory. They stayed there for seven or eight years of the war; no aircraft was ever destroyed by enemy action on one of those carriers. Yet, during the same period, over 400 aircraft were destroyed on airfields ashore and over 4000 were damaged. In the Korean War, all the airfields in South Korea were overrun in the first few weeks. The aircraft carriers weren't touched. They stayed off the Pusan perimeter and saved it and covered the amphibious landing at Inchon that turned the war around.

You have to go all the way back to World War Two to find carriers that were attacked. In World War Two, Essex-class carriers were struck by as many as four of the most intelligent missiles ever devised: the kamikaze aircraft. Yet none of these carriers was sunk and most could have been back in action in a matter of hours. Since then, we've built much more survivability into our carriers. The most recent involuntary laboratory test was aboard the nuclear carrier Enterprise a few years ago, when a tragic fire exploded U.S. bombs—the equivalent of eight or nine missiles—but the carrier could have been back in action very quickly.

PLAYBOY. Were the carriers that were deployed in the Gulf of Tonkin left alone because the North Vietnamese didn't have missiles of sufficient sophistication to damage them severely?

ZUMWALT. They had MIG aircraft. And the Soviets could have given them missiles if they thought it was the intelligent thing to do.

PLAYBOY. Exactly. Does the fact that our carriers weren't attacked in Korea and Vietnam prove that they *couldn't* be attacked?

ZUMWALT. Well, the Communists had the advantage of observing what happened in World War Two when carriers were attacked. So they made an intelligent decision not to attack them. In other words, the Communists are militarily more knowledgeable than some of those in this country who are claiming the vulnerability of carriers. And they knew they would lose far more politically than they would win militarily if they initiated such attacks.

PLAYBOY. But surely a guided missile with an atomic warhead could obliterate a carrier with ease.

ZUMWALT. A missile has to be fired with good target information originating from an aircraft, ship or submarine. That information-relay station can be dealt with by a carrier. At sea there is open territory through which the enemy cannot sneak—no hills to hide behind, no valleys to hide in. And you have a target that's constantly moving.

PLAYBOY. A nuclear warhead exploded in the air wouldn't have to be particularly close to the target.

ZUMWALT. True, if the fire-control information was accurate and the bomb was delivered in a matter of minutes before the carrier—which can do about 35 knots—could steam out of the blast area.

PLAYBOY. How about radioactivity?

ZUMWALT. You simply run in such a direction that the wind takes the radioactivity away from you. I might add that under water, an atomic warhead has to be exploded surprisingly close to a submarine to destroy it.

PLAYBOY. Do the Russians share your conviction that carriers aren't sitting ducks?

ZUMWALT. Their first carrier is launched already and is completing its fitting out. Their second is under construction. They are about the size of our Essex-class carriers and can handle only vertical-takeoff aircraft and helicopters. Once they've gained experience with these ships, I believe they will immediately start the design of second-generation carriers able to handle sophisticated tactical aircraft. And I believe their objective is to have a larger number of carriers than we do.

PLAYBOY. Would a conventional sea battle today be significantly different from those of World War Two?

ZUMWALT. No. It would be similar in strategy and the weapons systems, while different, aren't dramatically so. But the naval ship of the future, the surface-effect ship that travels on an air cushion, could revolutionize war at sea. A ship the size of a small cruiser might do 80 to 100 knots.

PLAYBOY. Last October, there was a motion in the Senate to trim the military budget by $500,000,000, and it passed 51 to 47, although the cuts were eventually restored. Congressional authorization for a new nuclear carrier and a new schedule for the Trident submarine took a tremendous lobbying effort by the Pentagon. There seems to be many legislators who either don't hear you or don't believe you.

ZUMWALT. You will recall that during the rise of Hitler and Mussolini, the voices speaking out about the need to arm—Winston Churchill's being foremost among them—were in a distinct minority. In America, the vote to restore the draft in the last critical months prior to the breakout of World War Two carried by only a single vote. The fact that a democracy allows such major divergencies in public opinion is both its strength and its weakness. But it's very hard to persuade the people of a free society to be overly concerned when they themselves don't feel directly threatened.

PLAYBOY. Do you believe that the men and women in Congress who believe in lower military budgets are fools?

ZUMWALT. There are some members of Congress who simply don't believe what the people in the Pentagon are telling them. There are others who feel that we're wrong about how much force is required, that we already have enough force. But I don't believe that any of these men have gone through it in the detail that those of us responsible for military-contingency planning have. And then there are other Congressmen who just feel that you can trust

the Soviet Union to behave. And there is another small group who attack the military and its programs because they feel that it will advance their political careers—and I'd better not say what I think of them. It's important to note, however, that in Congress the support for our defense is such—and the respect for the Armed Services Committee is such—that almost all amendments to cut the committee's authorization bill have been defeated by a solid majority.

PLAYBOY. When you were criticized for lobbying so intensively on Capitol Hill, you said you should have at least the same lobbying privileges as the Russians.

ZUMWALT. Regrettably, that was a rather flip remark I made, but it's true that the Soviet Embassy has some personnel who keep in touch with members of the staffs of various Congressmen and Senators. Senator Jackson stated on the floor of the Senate that we should have seen the lobbying pressure he received from the Soviets when he was trying to get his ABM-treaty amendment through.

PLAYBOY. How are your own relations on Capitol Hill?

ZUMWALT. I've been a very hard target on the Hill. By and large, my opponents have had only half a bull's-eye to shoot at. Some of those who have tended to disagree with my views on strong defense have felt that we were right in trying to modernize lifestyles in the Navy, allowing things like longer hair and sideburns and trying to produce racial integration. And some of the Congressmen who were opposed to those personnel changes have tended to back me in my defense views.

PLAYBOY. You sent out 119 directives, nicknamed Z-grams, that have made the Navy far and away the most liberalized of the three Services.

ZUMWALT. I wouldn't use the word liberalized but rather modernized. We brought in groups of naval personnel from all over the world for two weeks at a time to come up with suggestions. Then they met with me, my principal deputies and the Secretary of the Navy, when he could be there, to discuss their grievances and their suggestions. Between 50 and 75 percent of their ideas were acted upon. I was personally amazed, on listening to the minority groups, to find out in how many ways, subtle and unbeknownst, there was discrimination—such as lack of qualified barbers and beauticians, black-oriented foods, magazines, books, music.

PLAYBOY. Why hadn't these needs been communicated long before to their immediate superiors?

ZUMWALT. The trust is that hearing about it as a single request from a single person on a single piece of paper, we don't grasp the intensity of feeling that one gets when one listens to a group.

PLAYBOY. What sorts of things did the Z-grams do for minorities?

ZUMWALT. Well, for example, Z-gram number 66 directs that each base station, aircraft squadron and ship have, on a concurrent-duty basis, a mincrity group officer or senior petty officer as an assistant for minority affairs; and that this man have direct access to the commanding officer. We also set up a Navy Wives' Ombudsman program, and there must be a minority wife in that.

PLAYBOY. Why are there so few black officers in the Navy?

ZUMWALT. When I became detailing officer in the Bureau of Naval Personnel—that's the office that writes officers' orders—someone passed on to me what he thought was bona fide policy for dealing with black officers: Send them immediately into recruiting duty, which at that time was very poor professional duty. Then, this man went on to say, you extend their tour as long as you can. Next, send them to the worst kind of sea duty you can find—a broken-down auxiliary ship, for example. When they've completed that tour, they generally get passed over, because they haven't had adequate professional background. That's all been changed for some time, but we still haven't done a good enough job of bringing in adequate numbers of minority personnel. At the Naval Academy this year, however, we took in over 100 blacks in a class of about 1200, so we're getting close to the national fraction.

PLAYBOY. What is the highest rank held by a black?

ZUMWALT. We have one black rear admiral—Sam Gravely—formerly director of Naval Communications, now in command of a destroyer flotilla. It's indicative of the problem that he is the first black who has ever been eligible for flag rank, and there hasn't been another eligible since he was selected three years ago.

PLAYBOY. Did the opposition to the Z-gram program have to do mostly with race?

ZUMWALT. There is no doubt in my mind that a significant and perhaps primary source of the concern expressed was, in fact, concern about racial integration rather than the issues raised: "permissiveness," "lack of good order and discipline." When the change in naval hair standards came, there were also those who felt there was a correlation between close-cut hair, smooth-shaven faces and good character. They had to be reminded that our great-grandfathers—with their beards, mustaches, sideburns and long hair—were a pretty sturdy lot.

PLAYBOY. How about women in the Navy—how many are on sea duty now?

ZUMWALT. Sixty-five, on a hospital ship.

PLAYBOY. In what capacities do they serve?

ZUMWALT. Any way a man does. If the equal-opportunity amendment is ratified, you realize, it will be *illegal* not to send women to sea. In principle, there is no reason why a woman shouldn't be a commanding officer of a ship, an executive officer, a chief engineer. The Russians and Israelis use their women in interchangeable roles with their men. In an era of an all-volunteer Navy, that increases by exactly twice the pool from which we can draw.

PLAYBOY. What about the problem of what some call friggin' in the riggin'?

ZUMWALT. I think that the average military individual will seek nonmilitary activity off the ship.

PLAYBOY. Isn't that a considerable risk, boys being boys and girls being girls?

ZUMWALT. The overwhelming majority will follow the rules, so that problem won't debilitate a ship any more than any other kind of misbehavior. There's just a lot more emotion associated with it than common sense would dictate.

PLAYBOY. There is also concern about the possibility that successive younger generations, increasingly more antimilitary, might be capable of devastating sabotage if ever forced into the Service. The carrier Ranger was crippled by a paint scraper and two bolts thrown into its main reduction gear, and in Vietnam there was fragging—the "accidental" killing of unpopular officers during combat.

ZUMWALT. There are extremely small percentages in all the Services who engage in that kind of activity, and there always have been. But it's my judgment that it won't ever assume major proportions. I think every young generation's approach to the world is to generalize idealistically—dissatisfied with what they see—hoping for a better world. The process of maturing improves the society as they work to achieve their ideals. They also learn that the only way in which they can arrive at positions of influence sufficient to improve society is to make certain compromises. It seems to me that the essence of growth is to learn how to do that without giving up one's fundamental beliefs and aspirations. When people achieve positions of importance, the real test, for naval officers or petty officers or anybody, is whether they recall those youthful aspirations and measure themselves aganist those early ideals, modified by maturity, but hopefully not too much.

PLAYBOY. A naval officer, as the enforcer of discipline on a ship, would seem to wield very considerable power and to be surrounded to a very considerable degree with the obvious trapping of power—the uniforms, the salutes, the "Sirs," the feeling that his word is law to those beneath him, especially to the enlisted men. The captain of a ship has, in effect, a small town completely in his control. Can't this power become corrupting?

ZUMWALT. An officer really doesn't have the kind of dictatorial power that corrupts—or much chance to get carried away by the authority he does have. I well recall when I reported aboard my first ship as an ensign and was made division officer of the electrical division. The division's senior petty officer was a wonderful old chief electrician's mate named Harrison. He walked up to me and said, "Ensign Zumwalt, there's only two times of the day that I want to see you. One of them is at morning quarters and the other is when I bring someone around that I want you to put on report." I had to earn his respect, and only then did he delegate responsibility upward. That kind of experience doesn't exactly make you feel all-powerful. If you throw your weight around too much, unreasonably or unfairly, it isn't long before your chief petty officer, through another chief petty officer, manages to get word to your department head—or, if that doesn't work, to your executive officer. If you managed in some way to defeat that, one of your seamen would write a letter to his Congressman—and you would find you didn't have the control you thought you did. And, frankly, there are the old traditions of honor and integrity and pride in service and love of country that most officers still live by.

PLAYBOY. But from time to time, some very ugly things have surfaced that make a deep impression on the public and help feed a strong antimilitary feeling in America. So you get the distrustful faction in Congress and Americans who believe the military is quite willing to deceive the public. An obvious example is the secret bombing in Cambodia and Laos.

ZUMWALT. I have to reject that as an appropriate accusation to level against the military. I don't know of any other organization in the U.S. in which there is such an overwhelming dedication to meticulous obedience to civilian authority in foreign or military affairs. I think that our Secretary of Defense. Dr. Schlesinger, was right in making the point some time ago that the military was not responsible for the decisions in Laos and Cambodia—that we were carrying out orders.

PLAYBOY. Hasn't that statement, "We were carrying out orders," become anathema? It was said in Germany after the war. It was said by Nixon aides during Watergate. There is a tremendous feeling in America that too many people have just been following orders.

ZUMWALT. Let me come right back at you on that one. I don't feel the slightest qualms about my position as a military man. I believe in carrying out every order I get to the letter, as long as I think it's consistent with my Christian ethics and my moral values. If I were asked to do something inconsistent with my conscience, I wouldn't hesitate to resign my job and return to civilian life. On the other hand, I think the public wouldn't want a military organization in which each man said to himself, "Do I like that order or not? Do I think it's a good idea or not?" That's the kind of thing that leads to the coups we see going on in other countries.

PLAYBOY. If you were told to lie to the American public—and to Congress—about

bombing in Cambodia, would you go right ahead and do it?

ZUMWALT. To the best of my knowledge and belief, no military man was told to lie about bombing.

PLAYBOY. Reports were falsified.

ZUMWALT. I wouldn't describe the acts that were perpetrated as falsification of reports. Those who had a need to know in the Executive and Legislative branches knew where the bombs were falling and knew that the reports were being submitted in two ways. Those that had to go into the computer for purposes of determining logistics and other data were entered to indicate that the targets had been in South Vietnam. It seems to me it was a reasonable decision for a Commander in Chief to make for foreign-policy reasons at the time. I further think that the bombing of Cambodia made a significant contribution toward the reduction of loss of American lives and was considered to be very important in accelerating the day we could withdraw our forces. It's very easy, in the light of Monday-morning quarterbacking, to go back and criticize those decisions.

PLAYBOY. By bombing territory in neutral countries and not telling most of Congress, didn't the military and the Executive branch usurp Congress' warmaking powers?

ZUMWALT. It's obviously a very gray area upon which honorable men can disagree. But given the overriding need to keep that information quiet at the time to save U.S. lives. I think notifying just the key Congressional leadership was as far as one could go without its becoming public information.

PLAYBOY. Do you think, then, that the American people are unreasonable to feel they've been lied to by their institutions?

ZUMWALT. I don't feel that way with regard to *everything* that's happened. I think the American people do have the right to feel in some ways that they were misled in the way in which this country became involved at the outset of the Vietnam war. I don't think there was an open and free dialog between the Executive and the Congress and the public at that time.

PLAYBOY. If there had been, would we have gone in?

ZUMWALT. I think the odds are that we wouldn't—but that's very iffy.

PLAYBOY. At that time, you wrote a position paper that said we shouldn't get involved.

ZUMWALT. That was in 1962, when I was on the staff of the Assistant Secretary of Defense. My reasoning was that, first, the issues there weren't at that time ones of vital interest to the U.S. and, second, that it would be a very long and costly war if we were going to try to do it as a land war. I did say that if we went in, we should do it with a decisive use of force. But I recommended that we should *not* go in.

PLAYBOY. You told us that if you were asked to do anything that violated your moral code, you would resign. But you served as Commander of Naval Forces in Vietnam—a war you didn't feel was called for. And this was a war in which the Navy dropped a third of all the bombs, a war in which 22,000 square kilometers of cropland and hardwood forests were defoliated, in which nearly half of the 22,500,000 population became refugees, often several times over. There were 1,390,000 casualties, half of them caused by U.S. and South Vietnamese firepower. Many Americans felt that we were destroying a nation in order to save it. Wasn't there any moral dilemma in all that for you?

ZUMWALT. No, I have no qualms at all about my role in Vietnam. And it's always interesting to me that those kinds of statistics are accumulated about the Vietnam war, a war I abhorred, but they're not accumulated about World War Two, a much more brutal war in which we went in and cut out the most lucrative and civilized parts of the enemies' cities—not jungle or forest. War is hell—whether it's Sherman marching through Georgia to bring down the South or whether it's the kind of war we fought in South Vietnam. But it seems to me that the question of destruction in South Vietnam has been applied differently from the question of destruction in our other wars.

PLAYBOY. Wasn't there a very big difference between getting the Germans and the Japanese before they got us and getting the North Vietnamese and the Viet Cong before they got South Vietnam?

ZUMWALT. Well, I think it's right to ask ourselves whether or not we should be more careful about putting our national honor behind commitments to nations. But when I took over my command in 1968, I agreed with the Administration that it could be very bad for this country's future if we abandoned an ally to whom we had committed our national honor—and turned over the majority of a non-Communist society to a Communist regime it detested. Our failure to meet the commitment, however unwise the initial decision, could have destroyed our whole network of alliances around the world. The long-term ramifications could not have been overstated.

PLAYBOY. What stuck in the craw of so many Americans was that the peasants, remote from their leadership, seemed to be the chief casualties of our international politics. Trying to win an unwinnable war for our national honor, we poured in more and more men with sophisticated weaponry that rained down destruction on very ill-defined targets, devastating vast areas of "suspected Viet Cong concentration"—inflicting 200,000 or more civilian casualties from U.S. and South Vietnamese bombardment. In a 1946 U.S. military court, a Japanese general was convicted and hanged because his troops killed 25,000 noncombatants in the Philippines. Why shouldn't our own military be tried for similar crimes?

ZUMWALT. Let me say first that I don't have any basis for assuming that your figures are accurate.

PLAYBOY. They come from the Congressional subcommittee changed with investigating war-related civilian problems in Indochina.

ZUMWALT. I don't have any basis for assuming that *their* figures are accurate. Now, there's no doubt that innocent civilians were killed as a result of U.S. military action—but it wasn't military policy to kill citizens, as it was in the case of that Japanese general. And, therefore, I don't think that the cases are similar at all. And finally, I don't think that an officer in command should be tried where civilians were killed as the result of a mistake—unless the mistake could have been prevented by prudence.

Furthermore, I spent 20 months in South Vietnam, and I was in the field almost every day. I never saw an example of indiscriminate pattern bombing. I saw several occasions when, through error, a populated area was hit when gunfire went astray or a bomb missed its target. But in every case. I saw the most vigorous efforts to investigate what had happened, what had gone wrong, whether it could have been prevented, and efforts to ensure that a repetition of that kind of mistake didn't happen.

PLAYBOY. Be that as it may, it was frequently reported in the press that the peasants regarded us as just as dangerous as the Communists.

ZUMWALT. That's a perception with which I don't agree, as I saw the Vietnamese. As we expanded their navy from 17,500 to 40,000, Vietnamese young men came in from the villages and hamlets throughout the entire country. There is absolutely no question that those young men had been raised by their families to detest the idea of being subjugated by a Communist insurgency. They were ready to fight like tigers against Communist tyranny. However imperfect the Saigon regime, it maintained a better two-way communication with its populace than does Hanoi. I believe that 80 to 90 percent of the North Vietnamese are uncommitted and, in order to survive, have learned what to say and what not to say—or they actually disbelieve and are afraid to speak up. The Hanoi regime stays in power by merely shooting dissidents and brainwashing the survivors.

PLAYBOY. How can you feel such outrage about that when the Saigon regime, which we fought to preserve, imprisons its political opponents—under horrifying conditions?

ZUMWALT. Their regime is not one that operates in the image we believe in in this country. But it's improving and it's far from the absolute tyranny of the North. But I'd like to say something else about our conduct of the war. In my opinion, the devastation in Vietnam was because of the way the Communists fought the war, not the way we did. It was a Communist insurgency that entwined itself within the social fabric—that threw hand grenades into market places just to destroy and maim, or into a community meeting where innocent women and children were watching a TV set—an insurgency that assassinated, fired into backs, burned crops and houses, destroyed village chiefs one after another. On our part, I recall numbers of cases where our men didn't even return fire because it was coming from a place surrounded by lots of settlements. Our tactics to deal with that type of enemy were designed to minimize the loss of American lives. I saw many wonderful men die because they wouldn't fire back in the face of enemy fire when it came from villages in which there were women and children. I've seen many cases of American sailors' adopting children and looking out for their mothers and fathers—slipping handouts to them in the way of food and other things. The average American was a good man and he was a much maligned man in that war, as a result of some very biased reporting.

PLAYBOY. But, Admiral, isn't that vision of the high-minded American soldier versus the savage Viet Cong somewhat simplistic in the light of all the testimony by veterans about U.S. atrocities? A colonel has testified that every large combat unit had its own, perhaps smaller version of My Lai. Soldiers have testified that pilots mounted sirens on their helicopters to terrify peasants working in the fields and, when the peasants ran, gunned them down. A rifleman described men bringing back ears of dead Viet Cong for body counts; some wore the ears on cords around their necks; and at headquarters, there was an "ear board." To get prisoners to talk, it was reputedly common practice to attach field-telephone wires to testicles or pound dowels into ears. Others were pushed out of helicopters to get surviving prisoners to talk. Village houses were burned down with the occupants inside during "Zippo" raids. And at the Calley trial, it came out that we drove civilians ahead of our troops to detonate any mines or booby traps.

ZUMWALT. Unquestionably, there were cases of individual transgression, but I reject absolutely the conclusion that the average American fighting man was a sadistic beast. He was not. There were undoubtedly individual officers who condoned such practices, but they were in a very small minority. The policy was against it and almost every officer with whom I came in contact not only recognized that but spent a lot of time talking to his men about the proper attitude toward the war.

PLAYBOY. However we fought it, could the war have been won?

ZUMWALT. As I said, I don't think we should have gone in in the first place, but having made that decision, I think we should have applied air power much more directly at the vital targets—as was done finally in 1972 by President Nixon with the bombing of Hanoi and the mining of the seaports.

That stopped the flow of supplies for the first 30 to 60 days and they never got back up to their original level of flow. So I think we could have achieved much earlier the result that finally was achieved.

PLAYBOY. Many Americans fear that they must be prepared to die in little wars in obscure foreign countries to protect America's "vital interests." Do you think that's a legitimate fear?

ZUMWALT. I think rather that there is a prospect, if the United States maintains necessary military programs, that the leavening process within the Soviet Union and the People's Republic of China can, over a time, begin to produce a series of treaties, understandings, arrangements that will reduce the prospect of armed conflict. It's going to be a very long, very difficult, very painstaking process taking decades, not years. I think one of the toughest things to get across in a democracy is the idea of having to gird our loins for a 30-year struggle for peace. The Communists have no problem whatsoever in getting Hanoi to think in terms of a 30-year struggle to take over South Vietnam.

PLAYBOY. You talked earlier about how, if present trends continue, it's inevitable that we will lose control of the seas and even our ability to negotiate with the Communists. One gets the feeling that perhaps you think the totalitarian system is proving more effective than the democratic system.

ZUMWALT. Over the last several hundred years, nations have used a combination of power and politics. I think the new element in the modern era is a theology that has converted itself into a bureaucratic system for retention of power against the wishes of its people. It has maintained a vicious control over public opinion and the press and has linked all of its assets in ways that democratic nations will never be able to do. But I believe that over the long haul, the dreadful practices of the Soviet regime toward its own people and its client states will become a significant liability to the Soviet Union. So the key factor is for the West to retain sufficient military superiority to deter the Soviet Union from militant foreign-policy adventures until this weakness of theirs can eat away at their vitals.

PLAYBOY. There are those who believe that many of our own values and faiths have gone down the drain—endangering the nation's ability to respond to its leadership, and perhaps even to survive.

ZUMWALT. One of the hopes of this country is that out of each frustration comes renewed dedication to getting on with those things to which the country is truly committed. The popularity of any given leadership may rise or fall, but underneath I think a very large majority has an unchanging dedication to what I call our national idealism. The greatest strength we have going for us is the motivation, spirit and drive that can truly be marshaled in a democratic way of life. The problem is that our people must be adequately forewarned of danger so that this motivation can be marshaled before it's too late. If we can do that, we have a *chance* to survive.

[From the Chicago Tribune—June 29, 1974]

ZUMWALT LEAVING HIS CHANGED NAVY

(By Bill Anderson)

ANNAPOLIS, MD.—Adm. Elmo R. [Bud] Zumwalt steps aside here tomorrow as chief of naval operations with honors at the academy where he began as a young sailor 32 years ago.

Zumwalt's physical appearance casts him as an admiral. He is a big man, tall and rather stern-looking with bushy eyebrows. My guess is that he would have been a gentleman and a top professional without holding the rank of an officer. This is a view shared by many members of Congress and a very high percentage of the younger people serving in the Navy.

But some of the older brass, many of them retired—and determined to preserve, in today's nuclear Navy, traditions that were born in the days of sailing ships—hold opinions that don't rank Zumwalt that high professionally. The views of these would-be helmsmen developed largely because Zumwalt has shaken the personnel policies of the Navy right down to its bell-bottomed trousers.

In four years as the chief, Zumwalt has made life a great deal better for the enlisted personnel and opened doors of opportunity for junior officers as well—literally thousands of sailors who were calling it quits in the old Navy.

The admiral has led a special drive to give an equal break to the once-limited minorities—people like blacks and women. Family life is better in the Navy today because a huge effort has been made to reduce long, solitary tours at sea.

Yet, not even Zumwalt thinks the Navy is in as good condition as it should be. For example, we aren't replacing airplanes as fast as they wear out; we have given up 47 per cent of our surface ships in the last five years. A lot of our remaining ships are too old and in poor repair. On a real basis, the Russians continue to build while the United States slides.

At this moment it appears that the United States has given up its capability to control the seas; the possibility of success in the event of a confrontation with the Soviets declines each year. In a way, Zumwalt has been America's Winston Churchill, because he has warned both Congress and the public of this erosion.

Yet the factors that have caused a general American military decline—political, and social unrest in the aftermath of the Viet Nam War—have in some ways displayed the very real strength of Zumwalt to meet and match change.

From the very beginning, Zumwalt's career has been a series of firsts—and therefore tradition-breaking. He was a very junior naval officer at the end of World War II when his destroyer was the first American ship to reach Shanghai. There he met and married the beautiful Mouza Coutelais-du-Roche. Tradition had it in those days that a future chief of naval operations would likely be wed immediately upon graduation from Annapolis.

Many years later in the War College, Zumwalt wrote a military posture statement so brilliant that it found its way to the desk of Paul H. Nitze, then the director of the International Security Affairs office of the Pentagon. When Nitze became Navy secretary, he took Zumwalt along as an aide. It was in this position that Capt. Zumwalt began to reshape once rejected budgets to enable the Navy to maintain a better posture than previously.

Zumwalt went off to Viet Nam [as the Navy's youngest admiral] to work on the line with the generations that fought the losing war. When he became the chief [also the youngest], Zumwalt wasn't very far removed from either the reality of officers' wardrooms, the cloakrooms of Congress, or the often restless and sometimes ugly mood of the fleet sailors.

A staggering 90 percent of the enlisted ranks were getting out at the first opportunity when he took command. Maintenance suffered as men with critical specialties found a better life among civilians. Enlistments were also off, and education levels were far too low for operation of a computer electronic fleet.

Against great opposition, Zumwalt initiated the personnel changes. He also found a lot of support. Today approximately 27 per cent of the first-termers are staying in—and therefore saving the taxpayers millions of dollars that would otherwise go for the cost of new training. The highly personal effort of Zumwalt [and others] in Congress to gain approval for the new Trident submarine gives promise of maintaining one element of this nation's strategic force.

We know from interviews that many sailors here—and around the world—will salute Zumwalt tomorrow with more than usual respect because he has fought for their dignity. In doing so, the 53-year-old admiral picked up a great deal more himself.

PASTOR OF THE POOR

Mr. KENNEDY. Mr. President, Archbishop Dom Helder Pessoa Câmara, an advocate for the poor, for human rights, and for the end to repression in Brazil, was recently conferred an honorary doctor of laws degree at Harvard University.

The archbishop has also been nominated for the Nobel Peace Prize several times, and in 1973 received a "People's Peace Prize" in Norway—$300,000 raised by European church and student groups, trade unions, and political parties. He immediately used this peace prize money to help fund a model land-distribution program that has given a group of local sugarcane farmers their own land to harvest.

His commitment to the poor, his outspoken defense of human rights, and his leadership in the drive for social reform have earned him worldwide admiration and recognition.

I commend the following article concerning Dom Helder's efforts to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

[From Time magazine, June 24, 1974]

PASTOR OF THE POOR

The plot seemed like something out of *Becket*. The conspirator's accomplice, a poor man, was to go to the city or Recife in northeastern Brazil and there seek out a certain troublesome archbishop. "That priest," the accomplice was told, "must be eliminated." As it happened, the 1968 scenario was never played out. The would-be assassin was too softhearted to go through with the murder. Instead, he went to his intended victim, confessed the plot and warned him that others might try.

A certain grace seems to touch the life of the diminutive (5 ft. 4 in.) Archbishop of Olinda and Recife, Dom Helder Pessoa Camara. Better known to the world simply as "Dom Helder," Brazil's famed voice of the poor and preacher of nonviolent revolution is a persistent nettle in the breeches of his country's military regime. At least eight of Dom Helder's associates have been arrested and tortured. He has been castigated as a "Fidel Castro in cassock" and disdainfully dubbed "the Red bishop." Lately he has been so judiciously ignored by Brazil's censored press that some educated people in Rio are surprised to learn that he is still alive.

Outside Brazil, though, his name is very much alive—and widely honored. He has several times been nominated for the Nobel Peace Prize and in 1973 received a "People's Peace Prize" in Norway—$300,000 raised by European church and student groups, trade unions and political parties. Last week he was at Harvard University to accept an honorary degree as a doctor of laws.

HUMAN WORLD

It is on such trips abroad—three or four a year—that Dom Helder now pins many of his hopes, since in Brazil, he concedes, "we are crushed." At times he has used his foreign platforms for stinging denunciations of terror and torture in Brazil, more often he tries to prick the conscience of the First World for its complicity in the Third World's troubles. He had prepared a biting acceptance speech—not knowing there would be no time to deliver it—for the Harvard commencement. In it he assailed, among other things, "the greed of multinational corporations" and "the injustices of international trade politics [that kept] two-thirds of humanity in misery." Yet, characteristically, Dom Helder's undelivered speech ended on an optimistic theme: his contention that there are courageous minorities everywhere who want to "construct a world that is more breathable, more just, more human."

Dom Helder (the *dom* is an old Portuguese title of respect) was born 65 years ago in the northeastern Brazilian city of Fortaleza in the back room of a schoolhouse where his mother taught the primary grades. His father, an anticlerical journalist, chose the boy's name from a dictionary rather than the calendar of saints but did not keep his son from studying for the priesthood. Ordained at 22, Father Câmara soon moved into religious education—and flirted briefly with the Brazilian version of fascism before moving to Rio in 1936.

Not until a few years after Dom Helder became an auxiliary bishop in 1952 did he turn his organizational talents to helping the poor, building apartments for slumdwellers, organizing a "Bank of Providence" to provide various social services as well as no-interest loans to the city's needy. So popular did Câmara become that Brazil's President Juscelino Kubitschek offered to appoint him mayor of Rio. He declined.

Dom Helder was named Archbishop of Olinda and Recife in 1964, just before the leftist government of President João Goulart fell; since then, his hopes for social reform have been increasingly frustrated. His most ambitious project—a movement called Action, Justice, and Peace, which aimed at recruiting citizens in a revolutionary restructuring of society—scarcely got beyond the launching stage in 1968 when Brazil's regime clamped on harsh new dictatorial controls that made the movement impossible. These days Dom Helder has to settle for more modest projects. One of the latest, which he helped fund with some of his peace-prize money, is a model land-distribution program that has given a group of local sugar-cane farmers their own land to harvest.

Dom Helder remains resolutely nonviolent in his call for "revolution." He respects the angry fervor of men like Che Guevara or Camilo Torres, who were willing "to sacrifice their lives" in their struggle. But he has only disdain for "the facile violence of armchair guerrillas." His deepest scorn is reserved for those who provoke revolutionary action in the first place: "The small, privileged groups who maintain thousands of God's children in subhuman condition." This stand, not unlike Pope Paul's own, has helped ensure for the embattled bishop the Pope's warm support.

For all Dom Helder's fame, the people of his archdiocese revere him most as a compassionate pastor, and often greet his slight, black-cassocked figure with a bear-hugging Brazilian *abraço*. He abandoned his episcopal palace in 1968, and lives in two small rooms attached to a Recife parish church. The big official residence remains in use, though, both as Dom Helder's office and as a sort of Jacksonian White House, where crowds of visitors gather each day to seek advice or assistance.

Only a habit that dates back to the seminary gives Dom Helder any time to himself—two hours when the rest of Recife is asleep. Every morning he rises from his hammock at 2 a.m. to pray, meditate, write letters or poetry until 4. Then he slips back into the hammock before rising again at 5 for early Mass—and another day as pastor of the poor.

KIDNEY DISEASE PROGRAM

Mr. HARTKE. Mr. President, as the coauthor of the medicare kidney disease program, together with my distinguished colleague, Senator LONG, I have been deeply concerned about reports of continuing difficulties in the administration of the program.

The kidney disease program has great import for thousands of Americans; it is also the forerunner of national catastrophic health insurance. If we cannot get this program to work effectively, I question whether we will be able to get a broader catastrophic program to work properly. Doctors, hospitals, and patients have joined in criticizing the unnecessary redtape and the poorly constructed regulations.

Mr. President, earlier this year, I placed in the RECORD the comments of Indiana doctors and hospitals on the kidney disease program. I have since surveyed each of the States to determine their experience under the program. The information from that survey is now being analyzed, and I will soon be able to share it with my colleagues. I ask unanimous consent that an article on this subject appearing in the Des Moines, Iowa, Evening Tribune on May 22, 1974, be printed in the RECORD.

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

[From the Des Moines Evening-Tribune, May 22, 1974]

UNITED STATES BEHIND IN PAY TO IOWA HOSPITALS FOR KIDNEY DIALYSIS

(By Virgil Oakman)

The federal government has fallen hundreds of thousands of dollars behind its payments to nine Iowa hospitals that are supposed to be reimbursed by the government for up to 80 per cent of the cost of treating patients with severe kidney failure.

The program, which went into effect last July 1, is intended to relieve the financial burden from persons who need expensive and continuing treatment on kidney dialysis equipment.

RED TAPE

However, hospital officials say—and federal officials confirm—that the program has been bogged down in red tape.

The hospitals have received only a portion of their scheduled reimbursements during the past 11 months—a situation that hospital officials say has caused a financial hardship, forcing them to borrow money in some cases to keep kidney treatment programs going.

Officials at Iowa Lutheran Hospital in Des Moines said they have not been reimbursed at all under the program since January.

Charles Bittick, vice-president of finance at Iowa Lutheran, said the federal government is $345,000 behind in its payments to the hospital.

As a result, Iowa Lutheran had to borrow $250,000 at 9.75 per cent interest, partly to pay for costs of treating kidney disease patients, he said.

The other eight Iowa hospitals that have had problems getting paid are Mary Greeley Memorial Hospital in Ames, Trinity Regional Hospital (West) in Fort Dodge, University Hospitals in Iowa City, Veterans Administration Hospital in Iowa City, Henry County Memorial Hospital in Mt. Pleasant, St. Luke's Hospital in Davenport, St. Vincent's Hospital in Sioux City and St. Francis Hos-

* * * * *

SHORTCOMINGS

Hospital officials cite these shortcomings in the federal program, administered by the Social Security Administration in Baltimore, Md.:

Practically no reimbursements were made to hospitals and physicians during the first five months of the program.

Reimbursements received since November have been slow in coming, and have been many months overdue.

The maximum allowed for treating renal disease patients is not nearly enough to cover the costs of treatment.

The program has been hampered by red tape, unnecessary paper work, lack of coordination, ambiguity in regulations or no regulations at all and feuds between the Social Security Administration and the Veterans Administration.

Senator Vance Hartke (Dem., Ind.), a strong backer of the program, said in a speech before the Senate earlier this year that the program was in "chaos." He said he had received complaints about it from hospitals, physicians and patients throughout the country.

A Hartke aide, Dwight Jensen, formerly an aide to U.S. Senator Harold Hughes (Dem., Ia.), said that hearings will be held within the next several months to investigate handling of the program.

COST CONTAINMENT

Philip Jos, chief of the chronic renal disease staff at the Social Security Administration's Baltimore offices, acknowledged in a telephone interview that the program was bogged down for at least five months in its early stages.

But, he said the program was "new and unique" and it took time to work out administrative procedures for handling claims.

"I suppose there are ways" the Social Security Administration could have got the program off to a better start, Jos said, but he added:

"There has got to be some reasonable containment of cost."

He said much of the paperwork and red tape that prevented prompt reimbursements to hospitals and physicians resulted because "we just didn't let everything go."

Jos said that "if you take a loose approach at the beginning, it is hard to cut back later."

GUIDELINES

A big problem during early months of the program, according to Iowa Lutheran's Bittick was supplying the Social Security Administration with information required to get claims numbers assigned to patients.

"This seemed to take several months," he said.

After that, he added, "it was several months before the billing forms became available."

Then came another problem as hospital officials began meeting with Blue Cross-Blue Shield officials to work out details about the medical information that was needed for each patient and to establish which laboratory tests were essential to meet federal guidelines.

Bittick said that Iowa Lutheran applied for and received $70,000 from the Social Security Administration as an "accelerated payment" during the first few months of the program.

But he said when the hospital again at-

tempted to receive such a payment, "they said it was a one-time deal."

$1 MILLION PAID

Bittick said the federal government at one point owed the hospital $450,000, but that claims now have been paid up through January, cutting the back claims to $345,000.

The Social Security's Jos said that $1 million had been paid to Iowa hospitals and physicians by the end of April. He said he did not know how much was owed to them in back payments.

Nationwide, more than $55 million was paid out during the first 10 months of the program, he said. But other federal officials said the cost of the program up through June 30, 1974, originally was set at $200 million to $240 million, an indication that only about one-fourth of the claims had been paid as of April 30.

While the federal program will pay up to 80 percent of the cost of treating renal disease patients, the maximum allowed for each treatment is $150 for hospital and doctor care.

The remainder is paid by the patient's insurance or, in some cases, the Iowa State Department of Public Health.

In most cases, Iowans with severe renal disease must receive two or three treatments a week.

During these treatments, renal dialysis equipment is used to cleanse the patient's blood. The patient must be hooked up to the renal dialysis equipment for periods that range up to eight hours at a time.

UNCLEAR

Hartke, author of the legislation for the renal disease treatment program as a part of Medicare, asked Iowa hospital officials in mid-March for comments on the program.

Kenneth H. Yerington, director of financial management and control at University Hospitals in Iowa City, in a letter to Hartke dated Apr. 16, said the government owed $600,000 to University Hospitals.

Yerington said the payment "has not been made to us because of lack of clarity in the implementation regulations."

Donald W. Dunn, executive vice-president of the Iowa Hospital Association, Inc., said the program "has not improved" since Senator Hartke asked for comments from Iowa hospital officials.

Gary Edwards, acting administrator of Trinity Regional Hospital in Fort Dodge, said it takes a full-time person at his hospital to handle the paperwork for treating five patients.

The federal regulations require doctors to contract their services to hospitals in order to treat renal disease patients, he said, adding that he has not been able to get a doctor to enter such a contract.

LONG WAITS

Lynn Byrne, administrator of Henry County Memorial Hospital at Mt. Pleasant, said that at one point the government owed his hospital $90,000. "It (the financial situation) was getting pretty tight" before the hospital received its money, he said.

C. J. McGuire, controller of St. Vincent Hospital in Sioux City, said the program "is gradually getting better" but that the government owes his hospital about $50,000 in claims all the time.

This is because hospitals can only submit claims to the government once a month. It then takes another month to process the claim and receive the check, he said. As a result, the nine Iowa hospitals have to wait at least two months before they can be repaid, and it often takes longer than that.

"Sometimes it takes four or five months," said McGuire.

Robert Watson, a Blue Cross-Blue Shield official in Des Moines, which handles about three-fourths of the renal disease treatment claims in Iowa, blamed most of the problems on the Social Security Administration.

He said Blue Cross-Blue Shield received "almost a constant flow of information" from the Social Security Administration, most of it intended "to clarify the regulations" issued earlier.

Watson added, however, that "the paper work has pretty much stabilized now" and the program should start running more smoothly.

Most of the problems so far, he said, resulted because "it was a new experience and things were being defined."

[From the Des Moines Register, May 29, 1974]

KIDNEY PROGRAM RED TAPE

Beginning last July, persons afflicted with chronic kidney disease became eligible for Medicare coverage. The federal program absorbs the cost of kidney transplants and 80 per cent of the cost of renal dialysis, a treatment in which a patient's blood is pumped through an artificial kidney machine to remove impurities.

Although the program has been a boon to patients, who were faced with astronomical costs, it has been a financial headache to hospitals providing dialysis, including nine hospitals in Iowa.

The Social Security Administration fell behind—six months or longer in most cases—in reimbursing hospitals for their costs. Regulations governing the programs have been delayed and often confusing. Some fiscal restrictions were unrealistically low, based on the costs to the hospitals.

Government officials acknowledge early deficiencies in the program, but they insist that corrective measures have been taken, assuring a smoother operation in the future. Senator Vance Hartke (Dem., Ind.), chief sponsor of the aid legislation, has requested a congressional investigation of what he termed the "chaos" resulting from Social Security shortcomings.

The government's deficiencies in handling this new program are not reassuring at a time when there is growing talk in Congress of giving the Social Security Administration responsibility for overseeing a national health insurance program covering medical care for all Americans.

PART-TIME JOBS IN THE CIVIL SERVICE

Mr. TUNNEY. Mr. President, last year I introduced S. 2022, the Flexible Hours Employment Act in order to expand the availability of part-time jobs in the civil service. To this date, 15 other Senators, including three members of the Committee on Post Office and Civil Service, have joined in cosponsoring this bill.

I am delighted that the committee has agreed to consider this legislation at its next executive session. Mr. President, I ask unanimous consent that an article from Women in Action, vol. 4, No. 2 entitled, "Part-Time Workers: Five Success Stories" and the text and section-by-section analysis of the Flexible Hours Employment Act be printed in the RECORD.

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

PART-TIME WORKERS: FIVE SUCCESS STORIES

Dr. Lorraine Eyde is a senior research psychologist with a doctorate in industrial psychology. She joined the U.S. Department of Health, Education and Welfare in 1961 to do personnel selection research and transferred to the U.S. Civil Service Commission in 1971. Ten years ago, after the birth of her first son, Dr. Eyde began working on a part-time basis.

In her current position, Dr. Eyde is acting as project director for a reimbursable technical assistance project for the New York State Police. She is involved in developing selection standards for State Troopers and deals with related matters which involve the whole spectrum of personnel management.

Though her work week is normally 22 hours, Dr. Eyde must frequently travel on business which involves many additional hours on the job. During last January and February, she took five trips to New York for a total of 19 days. Before her current project, Dr. Eyde normally made four or five trips a year.

Dr. Eyde's two sons attend public school in Arlington, Virginia which has an Extended Day Program in operation. According to Dr. Eyde, "The program which originated in Arlington is a marvelous breakthrough for working mothers. Because of it, my children can arrive at their school for supervised recreational activities as early as 7:30 A.M. and may stay until 6:00 P.M. when my schedule occasionally requires work after regular school hours. It saves me a great deal of anxiety."

Dr. Eyde feels highly satisfied with her part-time working arrangement. "I think my job makes me a better mother and a more interesting wife and person. It gives me a chance to have the best of both worlds," states Dr. Eyde.

Dr. Anneke Levelt Sengers is a GS–15 physicist in the Heat Division, Institute of Basic Standards, National Bureau of Standards. She is an international authority in the field of physics of fluids and critical phenomena. In the fall of 1972, Dr. Sengers won the Department of Commerce's Silver Medal Award for her distinguished experimental and theoretical research and authorship.

On the average, Dr. Sengers produces one or two substantive, and one or two smaller papers per year. She gives from three to six invited talks per year, one of which is usually given abroad. In addition, she often presents talks at scientific meetings of various kinds.

Since 1964, after the birth of her first child, Dr. Sengers has been working on a part-time basis. She works six hours per day in the laboratory but often resumes working at home after her three children are asleep. Not only has the part-time arrangement worked out quite well for her, giving her more time for the children and household chores, but Dr. Sengers feels it has also been a good arrangement for her employer. "He receives my 'prime time', and could therefore not expect an appreciable increase in my output if he would employ me full-time." Dr. Sengers also feels that "part-time work should be available as an option to both men and women, with the same rights and duties as full-time work."

Since 1967, Helen Devay, a GS–14, has been the Chief of the Systems and Actions Branch of the Office of Personnel Management at the National Institutes of Health. She has been a Federal employee for 34 years and a part-time worker for 18 of those years.

For the first twelve years of her career, Ms. Devay was employed full-time at a variety of jobs, beginning as a junior stenographer in 1940 and moving through clerical jobs to become an organization and methods examiner with the Civil Service Commission, and later a personnel management specialist. In 1955, Ms. Devay resigned her job as a personnel management specialist with the Air Force Headquarters Civilian Personnel Directorate which she had held for seven years, to devote more time to her family.

In 1956, Ms. Devay returned to the Air Force to work on a special project. She be-

gan by working a 16-hour week but through the years, that increased to a 20-hour week. In retrospect, Ms. Devay believes that the Air Force did not really expect the part-time arrangement to be useful for any continuing period. "They learned differently," reported Ms. Devay.

In 1964, Ms. Devay was hired by the National Institutes of Health. Currently working an 80% tour of duty, Ms. Devay is in charge of personnel publications development, personnel data system operation, and appointing office responsibilities. She supervises a staff of 33.

Ms. Devay is an advocate for increasing part-time employment opportunities. "If any kind of business, including the Federal Government, does not make use of part-time workers, they are depriving themselves of valuable talent. I feel my part-time experience has been mutually beneficial to myself and the office."

Edna Susman is a medical technologist. As her family has moved around the country since 1953, Mrs. Susman has worked in the Veterans Administration hospitals near her homes. She began working on a parttime basis in the VA hospital in Hines, Illinois after the birth of her daughter in 1956. Her workweek over the years has varied from eight to 24-hours.

Mrs. Susman has been working part-time at the Washington, D.C. VA hospital since 1971. She normally works three days per week but if the workload is especially heavy or one of the other medical technologists is out, Mrs. Susman works an extra day or evening. She may work up to 39 hours per week.

Working in the routine hematology laboratory and the blood bank at the VA hospital is very challenging to Mrs. Susman. In order to improve her skills, she is taking a course on Wednesday evenings in solving blood transfusions problems at the National Institutes of Health. The VA hospital is paying her tuition. Mrs. Susman says, "I simply want to do the best job possible and keeping abreast of the latest developments in the medical field is important."

Mrs. Susman is enthusiastic about working part-time. She states, "I enjoy working part-time for several reasons. First, it allows me to keep my skills from becoming rusty. I also feel I can make a comfortable home for my husband, teenage daughter and aging mother-in-law. I spend three days working with sick veterans and am at home with my own healthy family for four days—a good balance for me."

In March, 1973, following the birth of her son, Bonnie Polk returned to work with the Food and Nutrition Service of the Department of Agriculture on a part-time basis. She continued in her previous capacity, as editor of the Food and Nutrition magazine and newsletter.

In the summer of 1973, Ms. Polk became Assistant to the Director of Information. This past fall, her supervisor asked her to become branch chief in charge of five full-time information specialists who cover program operation.

Ms. Polk works a three-day week and feels it has created no office problems. "I review all the work of the information people under my supervision—and if there is a tight deadline, I take the work home and do it in the evenings, on the weekends, or on my days off. Fortunately, this doesn't happen too often. On my days off I also frequently check with my people to discuss any problems they might have. They know, too, that they can call me any time at home. I have also changed my work schedule if something is pressing at the office and I need to be there."

Ms. Polk's supervisor is extremely pleased with the way her position is working out. He has recommended her for promotion.

Ms. Polk feels that as a part-time employee, she has the best of both worlds. "By working three days and spending four days a week with my son, I feel as if I can still be the person who is primarily responsible for raising my child, and at the same time give valuable service to the organization for which I have worked for many years."

S. 2022

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 "Flexible Hours Employment Act".

SECTION 1. As used in this Act, the term—

(1) "Executive Agency" means an Executive department, a Government corporation, and an independent establishment, including the United States Postal Service;

(2) "flexible hours employment" means part-time employment, as for example, 4 hours per work day or, 1, 2, 3 or 4 days per work week, and includes such other arrangements as the Secretary establishes consistent with the policy set forth in section 2(a) and

(3) "Secretary" means the Secretary of Labor.

SEC. 2. (a) It is the policy of the United States Government that, unless adjudged impossible by the Secretary, at least two per centum of the positions at each and all levels in all Executive Agencies shall be available on a flexible hours employment basis for persons who cannot work or do not desire to work full-time within one year after the date of enactment of this Act. Not later than two years after the date of enactment of this Act, four per centum of such positions shall be available for such persons. Not later than three years after the enactment of this Act, six per centum of such positions shall be available for such persons. Not later than four years after the enactment of this Act, eight per centum of such positions shall be available for such persons. Not later than five years after the date of enactment of this Act, ten per centum of such positions shall be available for such persons.

(b) Each Executive Agency shall adopt and maintain procedures, continuously conduct activities and projects, and undertake such other efforts as may be appropriate to carry out the policy of subsection (a) of this section. The Secretary shall promptly formulate and implement and thereafter supervise a program to assist Executive Agencies in carrying out such policy.

(c) Each Executive Agency shall report quarterly to the Secretary on the procedures, activities, projects and other efforts undertaken to carry out the policy of subsection (a) of this section. The quarterly reports shall contain documentation concerning the extent to which the employment requirements of subsection (a) have been fulfilled and an explanation of any impediments to their fulfillment and of measures undertaken to remove these impediments.

(d) The Secretary shall report annually to the Congress on the procedures, activities, projects and other efforts undertaken to carry out the policy of subsection (a). The annual reports shall contain documentation concerning the extent to which the employment requirements of subsection (a) have been fulfilled and an explanation of any impediments to their fulfillment and of measures undertaken to remove these impediments.

SEC. 3. (a) The Secretary shall carry out all his or her functions relating to the welfare of wage and salary earners through the Employment Standards Administration of the Department of Labor, or any Administration of the Department of Labor that may, after the effective date of this Act, be charged with responsibilities similar to those of the Employment Standards Administration, including—

(1) the conduct of research and experimentation projects and any other activities designed to promote, in public and private employment, the advancement of opportunities for persons who are unable or who do not desire to work standard working hours;

(2) the promotion and supervision of programs for flexible hours employment in the Executive Agencies; and

(3) the encouragement of adoption of flexible hours employment practices by all public and private employers.

(b) The Secretary shall carry out all of the functions of this Act through the Employment Standards Administration of the Department of Labor, or any Administration of the Department of Labor that may, after the effective date of this Act, be charged with responsibilities similar to those of the Employment Standards Administration.

SEC. 4. No person who is otherwise qualified for full time Federal employment shall be required to accept flexible hour employment as a condition of new or continued employment.

SEC. 5. All persons employed in flexible hours employment positions pursuant to the policy established by section 2(a) of this Act shall receive, on a pro rata basis, all benefits normally available to full-time employees of all Executive Agencies in similar position or grade.

SEC. 6. No Executive Agency subject to the provisions of this Act shall, for the purpose of determining that agencies personnel ceiling requirement, count any employee employed on a flexible hours employment basis other than on a pro rata basis according to the percentage of hours such employee works in each 40 hour work week.

SEC. 7. No person employed as an expert or consultant pursuant to section 3109 of title 5, United States Code, and no person who is employed for more than 20 hours in any 40 hour work week by any employer other than an Executive Agency may be counted for the purpose of determining compliance with the policy established in section 2(a) of this Act.

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1 defines the terms "Executive Agency", "Flexible Hours Employment" and means part-time employment as, for example, four hours per work day or one, two, three, or four days per week and other similar arrangements that the Secretary of Labor finds to be consistent with the basic policy set forth in Section 2.

Section 2, Subsection (a) sets forth the basic policy established by this legislation. It requires that, unless adjudged impossible by the Secretary of Labor, 2 percent of the positions at each and all levels in all Executive Agencies must be made available on a flexible hours employment basis within one year of the date of enactment. Two years after enactment, 4 percent must be so available. Three years after enactment, 6 percent must be so available. Four years after enactment, 8 percent must be so available. Five and all subsequent years after enactment, 10 percent must be so available. These positions shall be made available for persons who cannot or do not desire to work full time.

Subsections (b), (c) and (d) establish reporting procedures through which the Secretary of Labor administers the review and oversight of the implementation of Subsection (a) policy and through which the Congress is kept informed as to the extent of, barriers to and development of measures to increase fulfillment of Subsection (a) policy.

Section 3 requires the Secretary of Labor to promote expansion of flexible hours em-

ployment practices by all public and private employers.

Section 4 provides that no person can be forced, against his or her will, to accept flexible hours employment as a condition of new or continued employment. This is to protect present full-time employees in the Civil Service against the possibility that they might be forced into changing their own currently satisfactory working arrangements in order that their employing agencies might meet the policy goals stated earlier.

Section 5 provides that persons employed in flexible hours employment positions shall receive, on a pro rata basis, all benefits normally available to full-time employees working in similar Federal positions or grades.

Section 6 requires that, when counting employees for purposes of determining compliance with agencies' personnel ceiling limits, persons in flexible hours employment positions shall not be counted on other than a pro rata basis according to the percentage of hours each person works in each forty-hour workweek.

Section 7 says that persons employed as outside experts or consultants or persons who work more than twenty hours per week outside the Federal government may not be counted for the purpose of determining compliance with the policy and goals established by this legislation.

Section 8 authorizes to be appropriated such sums as are necessary to carry out the purposes of this legislation.

BASTILLE DAY

Mr. PERCY. Mr. President, on July 14 the people of France celebrate their great national holiday, Bastille Day. This year marks the 185th anniversary of the creation of the French Republic.

I would like to take this occasion to greet the French people, our close friends and oldest allies, and especially the many French families who reside in the United States. Throughout our history, mutual respect and trust have created strong bonds and warm relations between our two peoples. I look forward to continued amity and a further strengthening of our traditional ties.

SENATOR JACKSON'S CHINA VISIT

Mr. JACKSON. Mr. President, my visit to the People's Republic of China from July 1 through July 6 provided an unusual opportunity for indepth exchanges with top Chinese leaders on major foreign policy questions. On my return I indicated a number of key impressions arising from these discussions, and would like to call them to the attention of my colleagues.

Mr. President, I ask unanimous consent to print in the RECORD my statement of July 8, 1974.

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

STATEMENT BY SENATOR HENRY M. JACKSON, ON RETURN FROM THE PEOPLE'S REPUBLIC OF CHINA, JULY 8, 1974

My view that the Chinese think realistically about the geopolitical situation on the Eurasian land mass has been strongly reinforced by my talks in Peking. I found that there are many areas in which American interests parallel those of the Chinese. Even though we use different language to express our positions and even though we start from different premises, there are a range of matters in which the national interests of our two countries are compatible. I found that many of my own positions on vital issues now being debated in America were understood and sympathetically appreciated by the Chinese.

During my stay in China I had over 15 hours of detailed and frank conversations with Premier Chou En-lai, Vice-Premier Teng Hsiao-p'ing, Vice-Minister of Foreign Affairs Chiao Kuan-hua, and other high officials of the People's Republic of China. I came away from these discussions with a number of key impressions of the way in which the Chinese view the developing world situation and of some of the problem areas that both we and they face.

At the center of Chinese concern is what they perceive to be the expansionist and unreliable nature of the Soviet Union. While they are convinced of their capacity to defend themselves on the basis of self-reliance, they see Soviet policy as in part directed at the encirclement of China.

It is my judgment that the Chinese recognize the importance of NATO and the danger of any immediate withdrawal of U.S. troops from Europe. Their present position is that the Soviets are "feinting to the East in preparation for an attack on the West." That is, they are concerned about the weakness of Europe and the need for greater unity among the Western allies.

One concern that I perceived is related to Soviet involvement on the Indian subcontinent and in the Persian Gulf, particularly their pressure on Iran and Pakistan. The Chinese expressed concern over their perception of the limited extent of American understanding of persisting threats to the territorial integrity of Pakistan.

Two years have elapsed since the Shanghai Communique and we should now be pressing on toward new departures in Sino-American relations, including the establishment of resident correspondents in each country, more substantial programs of cultural and educational exchanges, and the settlement of the assets issue. On the matter of diplomatic recognition, we should try to reverse the location of our embassy and liaison office as between Taipei and Peking.

I was struck by the Chinese spirit of self-reliance which is manifest in many areas, from security planning to their handling of foreign trade. The American people will welcome the news that trade with China is evolving on a solid commercial basis. Unlike the Russians, the Chinese are not seeking special subsidies.

I was able to explain to the highest Chinese officials the nature of the American decision-making process and the increasing importance of Congress in foreign policy matters. I believe that the U.S.-China relationship must be strengthened by moving beyond contacts between a limited number of personalities to a more institutionalized process and a far wider range of exchanges and other relationships.

To the Chinese one's word of honor is more important than formalistic agreements on paper, and they profoundly distrust the Soviet Union for failing to act with integrity. The Chinese have learned from bitter experience that their treaties are of little value with the Russians, and they value the frankness with which Americans have spoken with them. I found that while they and I could easily identify a wide variety of issues on which we could agree, they also respected my frankness when we identified matters on which we disagreed. At no point did ideology prove to be a hindrance to precise communication.

I met with Premier Chou En-lai in his suite in a hospital where he is convalescing. He was alert and keen minded. He was thoroughly familiar with my talks with the other officials and thus we were able to move directly to a discussion of key issues. On leaving he graciously accompanied me out of his suite where further photographs could be taken.

I must make further mention of how warmly received I was by all the Chinese with whom I dealt and I particularly appreciate the cordial hospitality of my host, the People's Institute of Foreign Affairs. When I visited Soochow, the birthplace of Mrs. Jackson's mother, the teachers and students at the college greeted us enthusiastically. I also want to thank the American Liaison Office in Peking and particularly my old friend Ambassador David Bruce for their many courtesies.

My trip was short but because we concentrated on working sessions rather than sightseeing, I was able to learn a great deal that hopefully will contribute to better relations and expanding contacts between the United States and China. It is clear to me that in the future there are going to be an increasing number of American policy problems the solution of which must involve considerations of Chinese interests and views.

We must grasp this moment in history when geopolitical considerations have brought our two countries closer together to build a web of relations which will promote peace, especially as China moves ahead to become a nuclear and industrial power. I trust my visit has been a significant event in the essential process of expanded and more frank discussions and consultations between Chinese and Americans about world issues.

THE DEATH OF FORMER SENATOR ERNEST H. GRUENING, OF ALASKA

Mr. HOLLINGS. Mr. President, I join in the Nation's sadness at the passing of our former colleague, Senator Ernest H. Gruening, of Alaska. And I share the Nation's pride in the many accomplishments of this wise and good man.

Ernest Gruening's career was long and fruitful. A man of intellect and scholarship, our late friend was equally at home in the fields of government, politics, publishing, medicine, and the arts and letters. His standard was excellence in whatever he did; and throughout his many years of service to the Nation, his performance matched that high standard.

In 1936, with recognition and prominence long since attained, Ernest Gruening made his first trip to Alaska. From that time onward, he devoted his untiring efforts to the development of that last, vast frontier. He utilized his every skill in the fight to achieve statehood, and it was largely thanks to his efforts that statehood was won in 1958.

He fought ceaselessly and vigorously for the causes in which he believed. Whether it was social justice for the underprivileged, or statehood for Alaska, or extrication from the quagmire of Vietnam, Ernest Gruening gave it his all.

Mr. President, it was an honor for me to serve in this Chamber alongside Ernest Gruening, although I was here for only the last 2 years of his senatorial career. In that time, I came to know him as a man of judgment and courage, always willing to give wise counsel, and generous and warm in his friendship.

He is gone now, but he leaves behind a proud record of accomplishment. He leaves, too, a beacon of integrity and compassion and dedication that gave meaning to his life and can give direc-

tion to ours. His family, his friends, his State, and his nation will remember him with affection and gratitude. This is a better land for his having come our way.

FIRST EMERGENCY MEDICAL GRANTS

Mr. CRANSTON. Mr. President, California will receive $3.7 million out of a total $17 million for the Nation under a new Federal program for improving emergency medical services.

The grants are the first to be made under the Emergency Medical Services Systems Act of 1973, a bill I authored which was signed into law last fall. The money will save thousands of lives by bringing fast, sure medical care to the scene of an accident or medical emergency and by improving hospital emergency rooms.

Los Angeles County will receive more than $2 million and will use it to send its famous paramedic teams to an additional 1 million people in 11 cities not now covered by the service.

In San Francisco, $381,206 will be used to modernize San Francisco General Hospital's emergency room, train paramedics and implement a citywide system of emergency medical services. Alameda County will receive $660,500 for ambulances and other first aid and rescue equipment needed to establish a comparable countywide system.

It is a continuing America tragedy that 175,000 people die needlesly each year in this country because of inadequate medical care in an emergency. Another 25,000 are left permanently crippled because of inept handling by untrained ambulance attendants and rescue workers.

The funds now being made available under my bill will help increase the number of survivors of accidents and restore them as quickly and fully as possible to productive lives.

PEER REVIEW SYSTEM IN THE UNITED STATES

Mr. BENNETT. Mr. President, I am delighted with the improved climate that seems to be developing around the PSRO program and happy to be able to share with my colleagues a recent news release from the Columbia University College of Physicians & Surgeons, which demonstrates a grassroots physicians' support for the PSRO concept. I ask unanimous consent that it be printed in the RECORD.

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

NEWS RELEASE FROM THE COLUMBIA UNIVERSITY COLLEGE OF PHYSICIANS AND SURGEONS

A national study of physicians indicates grass-roots support for a peer-review system in the U.S., strenuous opposition to the plan notwithstanding.

According to the study, conducted by a group of researchers at Columbia University's Faculty of Medicine, three quarters of the physicians interviewed would prefer a national health insurance plan "under which the work of doctors is routinely reviewed by a panel of practicing doctors," rather than a plan without such a system of reviews. Moreover, "leaders" and members of the American Medical Association were in esesntial agreement on this and other aspects of peer review. The study identified AMA leaders as those who had been officers or committee chairpersons on the AMA national, state, or local levels in the past five years.

"The heavy majority of physicians who favor peer review under a government-sponsored program such as National Health Insurance is surprising," said Dr. John Colombotos, associate professor in the Division of Sociomedical Sciences of the School of Public Health, "in view of the common impression that doctors—particularly members of the AMA—are split on the issue." Dr. Colombotos heads the study under a grant from the Bureau of Health Services Research, Department of Health, Education and Welfare.

Further, four out of five physicians (82 per cent of AMA leaders and 81 per cent of AMA members interviewed) favored "reviews of doctors' work in hospitals by other doctors."

Support drops for office reviews, the study found. Just under one-half of doctors interviewed (43 percent of AMA leaders and 48 per cent of AMA members) favored "reviews of doctors' work in their offices by other doctors."

Physicians who are not AMA members, many of whom are teachers, researchers, and administrators, were more favorable to such reviews.

In releasing information pertaining to the current discussion on professional standard reviewing organizations (P.S.R.O.'s), Dr. Colombotos emphasized the relevance of data, "despite the fact that they were collected in the spring, 1973, before the P.S.R.O.'s became front-page news."

Always a lively topic of discussion in medical circles, peer reviews appeared in the 1972 Social Security amendments calling for the establishment of a federally mandated review system for doctors. Under the plan, review organizations composed of physicians monitor care paid for by the Federal government, such as Medicaid, Medicare, and possibly national health insurance.

The information from the Columbia study is based on the responses of 2,700 physicians out of a nationally representative sample of 3,600 physicians in all major professional activities.

Dr. Colombotos and his associates, Corrine Kirchner and Michael Millman, also surveyed large groups of medical students, interns, residents and special groups of other physicians to explore major issues in the organization of health care in the United States. Only the information dealing with peer review is being released now because of its timeliness, Dr. Colombotos said. The data on other aspects of health care such as national health insurance are still being analyzed.

NATIONAL COUNCIL OF SENIOR CITIZENS SPEAKS OUT ON SOCIAL SECURITY

Mr. CHURCH. Mr. President, the National Council of Senior Citizens conducted its 12th Constitutional Convention this month—June 12–15—in Washington, D.C., and provided a major forum for discussion of issues affecting older Americans. Among those issues was one of vital concern to all age groups in our Nation: The present status and future soundness of our social security system. Mr. George Meany, president of the AFL–CIO, was the major speaker, and he was emphatic in his criticism of recent "scare" stories which suggest that the social security trust fund would not have enough money to pay benefits within the next decade or so. He said:

The Social Security Trust fund is not in danger of collapse, unless the Congress and the White House fail to respond to warning signals. And those who pretend otherwise have a political axe to grind. They hope their campaign will hurt the drive for genuine national health legislation.

Mr. Meany's point about "warning signals" is well taken. As chairman of the Senate Special Committee on Aging, I am conducting several hearings on "Future Directions in Social Security." Witnesses have made suggestions for changes in social security in order to meet challenges of the future, but they have not suggested desertion of its fundamental concepts, including the contributory payroll tax.

Their suggestions deserve careful consideration, but not in an atmosphere of fear or hastiness. We have time to make changes as they are needed.

Another point made by Mr. Meany is also worthy of attention and concern. He said that a leading union president, Mr. Floyd E. Smith of the International Association of Machinists & Aerospace Workers, was denied a place on the Social Security Advisory Council, apparently because he supported GEORGE MCGOVERN for President. Mr. Smith is chairman of the AFL–CIO Standing Committee on Social Security; he also is an active articulate spokesman on matters of social justice for all Americans. Outraged by this apparent political bias, several other labor representatives refused to become members of the Advisory Council.

Mr. Meany's comments about Mr. Smith provide additional reason for early action on a bill I have introduced, S. 3143, to establish the Social Security Administration as an independent, nonpolitical agency outside the Department of Health, Education, and Welfare.

Another view of the strengths of social security was expressed by Nelson Cruikshank, NCSC president and former social security director of AFL–CIO. Mr. Cruikshank has been a magnificent ally to Congress over the years in efforts to improve social security and one of its most important components, medicare. I took note of this fact at the NCSC convention when I received the Council's Award of Merit, and I also pointed out that Nelson Cruikshank is often a tactful and patient teacher to Members of Congress on matters of fundamental importance about social security and medicare.

In his report to the convention, Mr. Cruikshank described progress made on those and other programs during the past few years. His commentary is timely and informative; I ask unanimous consent to have this portion of his report printed in the RECORD.

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

Because of this extremely unfriendly climate which seeps down from the White House and permeates every branch of government we have to rely on our friends in Congress, not only for favorable legislation, but to help us police the legislation that has been enacted into law. Time and again for the past two years when proposed regulations have been published in the Federal Register putting us on notice that some further reduction in an existing program is contem-

plated, and we have filed a formal protest which we have no reason to believe is ever even read by the policy makers, we have had to go to our friends in Congress—and bring to their attention the Administration's schemes for overruling the intent of Congress. In instance after instance our friends have exercised their Congressional authority to keep the Administration in line to keep them from cutting back programs as much as they obviously would like to do.

But let me tell you, this is a dismal occupation. During the years I have been in Washington, a good bit of my time has been spent with Administration leaders suggesting improvements in programs or working with them to develop new programs of benefit to working people and the elderly. Our primary problem was with the Congress even though Congress in those early days was often more liberal than the present one. But the Administrations that I worked with—yes, even including the Eisenhower Administration—were providing leadership to the country in forward movements, not sitting there with a heavy foot on the brake trying to hold back existing programs.

The present Secretary of Health, Education, and Welfare comes to his post with no experience or competence in either field of health or education or welfare, but with training only in the expertise of budget cutting. He is one of the most heartless men I have ever known, apparently completely lacking in any compassion or feeling for human beings. It is no wonder that he is known unaffectionately in the whole public interest and welfare community of this city as "Cap The Knife".

But working with our friends in Congress has been rewarding. Probably our most outstanding achievement and one for which we can modestly take some credit was the improvements in Social Security benefits. Again, facing bitter Administration opposition and veto threats, we secured in 1973 a 20 percent increase effective September of that year. We have also secured a two-stage "cost-of-living" increase with 7 percent effective in March and the remaining 4 percent in June of this year. We secured legislation providing 100 percent of the primary insurance amount for widows and dependent widowers up from 82½ percent. Amendments to the Social Security Act also provided for automatic cost-of-living increases in Social Security benefits and the retirement test levels were increased by 43 percent.

For those who depend entirely on Social Security benefits the levels are still too low to provide adequate income especially in these times of rampant inflation. The time lag in the cost-of-living increases now built into the Social Security Act results in benefits always being behind the cost of living and when the cost of living increases are rocketing up at present rates this lag can be serious. However, the increases in Social Security benefits themselves have, in fact, far out-paced the cost-of-living increases. The Consumer's Price Index has increased by 15.7 percent since June of 1972 whereas the average retired worker's Social Security benefit has increased by 40.3 percent. The increase for aged widows, because of the special provision in the new legislation, has done even better. As against this 15.7 percent increase in the Consumer's Price Index, the average aged widow's benefit has increased 46 percent in the last two years. Those percentages look impressive but the average benefit still is only $174 a month and, while we can take pride in the great forward movement that has taken place with our active participation in the last two years, we certainly cannot say that enough has been done.

Improvements in Social Security legislation that have taken place in the last two years have also provided for the first time a guaranteed annual income for three categories, namely, the aged, the blind, and the disabled. This is an important principle even though the level of benefits is so low that they cannot alone lift many of the aged, or blind, or disabled out of poverty. However, we have in the past had the experience of having benefits introduced at very low levels and, once having established the principle, have been able to raise the benefit amounts substantially.

The implementation of this Supplemental Security Income Program has required a vast effort to find the newly eligible people estimated to be about three million in number. It is clear to us now that again the Administration wants to have something to talk about, maintaining that they are carrying on a vigorous effort to find these people, hoping and meaning all the time that they not be found. The law was passed in the middle of last year. It was to become effective January of this year. Some three million people on State welfare rolls could be transferred almost automatically but it was estimated that there was nearly another three million people who had to be searched out and found. An effort was launched under the guidance of the Administration on Aging which I think sincerely wanted to find these people but operating under the general restrictive attitudes of "Cap the Knife" they were hindered at every point. Now, five full months after the program was to have been in full operation, according to the latest figures we've been able to obtain, only about one in eight of the newly eligible persons are actually receiving benefits. That seems like a miserable record, but let me tell you that in this Administration in programs designed for the welfare of people that's about par for the course.

With respect to the Medicare program we have seen the Administration taking every administrative device available to cut back on the effective protection of the program. When they have proposed legislation to cut back the program they have been effectively thwarted by Congress. Neither Congress nor the public was deceived by the Administration labeling their cut backs as "Improvement in Medicare." Congress rather than cut back Medicare has, with our active support, and the support of our membership across the land, extended the Medicare program to cover the disabled and those with severe kidney diseases.

Further legislative accomplishments are found in the extension and expansion of the Older Americans Act and the programs operated under this Act. Two call for special mention: (1) the establishment of the Older American Community Service Program under Title IX. This program is based on the very successful demonstration program, Operation Mainstream, from which our Senior AIDES Program is operated, and (2) establishment of the Nutrition Program for the Elderly under title VII. Under this program over two hundred thousand, low-income older people, are now receiving hot, nutritious meals in a socially constructive environment.

We have worked with our friends in the labor movement to secure effective, acceptable pension reform legislation. Bills have passed both the Senate and the House with technical differences now in conference.

We were active also in the encouragement of the enactment of the Health Maintenance Organization (HMO) legislation and we let our wishes be known with respect to the amendment to the Highway Financing Bill which permits States and localities to use part of the Trust Funds for mass transit services. Finally we supported the enactment of a provision to establish a National Institute on Aging. After twice vetoing the measure, the President finally signed it reluctantly on June 1st of this year.

DEFENDING SOCIAL SECURITY

We had thought that after 39 years since the passage of the first Social Security Act that the principles of a contributory social security insurance system designed to protect workers and their families against loss of wages through retirement, disability or death of the family bread winner were firmly established in our national policy.

We had thought that the wide popularity and acceptability of this system and the principles on which it is based was a sufficient bulwark against the attacks of the selfish interests who had in the early years fought to destroy it. We find now, however, to our dismay, a new upsurge of challenges to these principles clothed in the pretense that they speak for the tax burdened worker and buttressed by the pseudo-intellectualism of outfits like the Brookings Institution, popular writers who never took the trouble to study the system and engulfing the nation in a flood of propaganda attacks against Social Security. In this field, therefore, we are called upon to fight a two-front war. The needs of our membership demand that we continue to fight for improvements in both the benefit and the financing of the system while, at the same time, we have to defend the basic principles of the system against those who would destroy it and with that destruction, destroy the best defense that working people have against poverty and deprivation.

ECONOMIC FORECASTS

Mr. BENTSEN. Mr. President, for those of us concerned about national economic policy the present disarray among academic economists is unsettling to say the very least.

As chairman of the Joint Economic Committee's Subcommittee on Economic Growth, I have just completed two sets of hearings on the long-term performance of our Nation's economy.

In reviewing the prominent forecasts, I have observed a large diversity of opinion and a general pessimism within the economic profession about the economic outlook for our country.

Mr. President, I wish to say that I am deeply concerned. I believe we have economic problems ahead which cannot be adequately dealt with in the absence of some changes in Government policy and even a hard rethinking of some of our basic economic theories. Ours has been a country where we have generally enjoyed a higher standard of living as the years went by. I am afraid we have entered a period in which far too many of our people will be fighting just to stay even.

Mr. President, I do not believe in the trickle-down theories which seem to have governed so many of our Government's recent economic policies. It has been my experience that when average working men and women in this country are doing well, business does well and the country as a whole does well.

But businesses are facing a problem right now which affect all of us—and that is their inability to raise adequate capital to expand capacity. Capacity shortages are causing inflation in a number of areas of basic manufactured goods—and inflation hits the average American worker very hard. I believe we must find ways of directing capital to areas where we need expansion such as basic manufacturing, mineral produc-

tion, and homebuilding. Over the last decade we have concentrated on stimulating or restricting "demand" as a means of dealing with economic fluctuation and have been inclined to let "supply" take care of itself. By relying on policies which reduce demand as the principal means of fighting inflation, Government has caused the inflationary impact of shortages and high borrowing costs to be reflected in almost everything we buy.

If this is fine tuning the economy—then someone has a poor ear for music.

The long-term forecasts I have studied now indicate high levels of inflation through 1982 and beyond, and the higher levels of inflation are distorting the picture of what kind of economic growth we can expect.

A recent article in Business Week points out some of the problems economists have encountered in making short-run forecasts. Of course these problems are compounded as we try to look further into the future. The crux of the problem for either long- or short-term forecasting lies in its dependence upon past patterns of events recurring. When the structure of the economy changes, the forecasts go awry. And the structure of our economy and its place in the world is changing. History has become a poorer guide in formulating our expectations about the future. I believe this article raises some question to which we need very desperately to find some answers.

I ask unanimous consent to have the article printed in the RECORD.

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

THEORY DESERTS THE FORECASTERS

Economists will remember 1974 for many things: for the squeeze on energy, for the breathtaking rise in prices, and perhaps for events yet to come. But mainly they will remember 1974 as the year the forecasters blew it.

Passing the midpoint of the year, the forecasters are scrambling to revise the projections they made so bravely last November and December (table, page 52). They disagree not only about the prospects for the economy in 1975 but also about the outlook for the remainder of 1974. They cannot decide whether the U.S. is going into a recession. They cannot even agree on the trend of production, income, and employment at the end of the second quarter.

Such confusion among the experts is frustrating for businessmen and government officials who must make commitments and choose economic policies on the basis of forecasts. It is equally frustrating for the economists themselves. For a forecast, essentially, is the statement of a theory with specific values instead of abstractions. When the forecast goes seriously wrong, it suggests that something is wrong with the theory. And when all forecasts miss the mark, it suggests that the entire body of economic thinking—accumulated in the 200 years since Adam Smith laid the basis for modern theory with his *Inquiry into the Wealth of Nations*—is inadequate to describe and analyze the problems of our times.

Somehow, today's economists must revise and extend this body of thinking so that it will apply to an inflation-prone world beset with shortages and far more unified economically than politically, like the "Keynesian Revolution" of the late 1930s. Some economists are already looking for a modern Keynes whose sudden insight will generate a theory to explain what is happening today, but the majority think that understanding will come piece by piece, as they accumulate experience with the new problems that face them. Until it comes, one way or the other, the forecasters will be flying blind.

Both business and government lean heavily on forecasting as a basis for decision-making. The auto industry, for instance, makes elaborate projections of incomes and output and uses them to estimate consumer demand, which in turn determines sales targets for the year ahead. Company treasurers forecast money market conditions in deciding when and where to raise the funds they need. The Federal Reserve usually adjusts its monetary policy to expected conditions, "leaning against the wind" when it thinks the economy is moving up too fast and relaxing when it wants to stimulate faster growth. The Administration and Congress base tax and revenue decisions on forecasts of incomes, prices, and employment.

A DETERIORATING RECORD

All these users now have to face the fact that the chances of serious error in forecasting have increased alarmingly.

As Robert H. Parks, chief economist for Blyth Eastman Dillon Co., says in a footnote to his latest forecast: "Our caveat is that probability theory (and economic theory) has not been of much help recently. The unprecedented and the dismal seem to come with a regular and stepped-up frequency." Economists, he concludes, are "forced to make economic projections more frequently."

In other words, even the best forecasts are now out of date shortly after they are constructed.

The sudden failure of the forecasts is particularly galling to economists because the performance record in the second half of the 1960s was extremely good. A majority of forecasters, including the best known of the econometric projections, the Wharton model at the University of Pennsylvania, accurately predicted the 1969-70 recession. They did equally well in calling the turn and estimating the dimensions of the recovery that followed. As the recession deepened in 1970, the forecasters saw a shift coming and predicted a modest increase in real output in 1971. This came through right on schedule, and the forecasts of price increases and levels of unemployment also checked out neatly with actual performance.

Again, in 1972, the typical prediction of accelerating business activity proved accurate. But 1973 was another story. The forecasters called the shots on economic growth pretty well. They failed utterly to foresee the explosive inflation. The average forecast of price change for the year (the deflator used to put gross national product on a constant-dollar basis) was 3.4%. The average change for the year was actually 5.4%, with the rate shooting up to 8.8% in the final quarter.

If 1973 was a bad show, 1974 promises to be worse. At the midpoint of any year, economists have usually settled on a consensus forecast for the remaining six months. This year there is not even an agreement as to whether the U.S. is in a recession or a temporarily interrupted boom.

Economists at New York's First National City Bank say, "The recession is still there even though many businessmen are persuaded that it was just a downtick." And the economic research arm of the Chase Manhattan Bank, Chase Econometrics, writes flatly: "The economy is still moving in the downward direction."

But Sam I. Nakagama, chief economist for Wall Street's Kidder, Peabody & Co., says that the latest figures indicate that business has picked up since the end of the oil embargo. And Donald E. Woolley, chief economist for Bankers Trust Co., says, "I am more concerned that business will be too strong later this year than I am that it will be too weak." He adds: "Of course, that assumes no liquidity crunch."

Behind this disagreement is an uncomfortable fact: Economists no longer know what to make of figures that they once thought they could interpret with confidence. The prime statistical series that every forecaster watches for clues to evolving trends have begun to give bewildering signals.

Take, for instance, one of the most widely used instruments in the economist's tool kit, the "leading" indicators. These indicators typically change direction well in advance of broad shifts in business conditions. For 24 years, economists have watched a composite average of 12 series that have been particularly consistent in warning of changes in the making. This so-called "short list" includes such items as hours worked, unemployment claims, new orders for hardgoods, contract awards for capital goods, stock market prices, and corporate profits.

The 24-year record of the short list in calling significant economic turns, either up or down, is good. But this time around, it gave no warning of the first-quarter spill in business activity. Since the economy began to slow in December, the leading indicators should have been going down before that. Instead, the index read 166.8 in October and has continued an erratic climb from there.

This should mean clear sailing ahead, but economists are beginning to suspect that the roaring inflation has injected a new and confusing factor into the dependable old series. Much of the apparent strength comes from series that are dollar-denominated. Their gains reflect the upsurge in prices rather than gains in real output. Economists are not sure how to—or even whether to—try to adjust for this bias.

They are equally mystified by the spectacle of sagging stock prices in the face of a general upswing in profits. They know that the climb of interest rates to record levels has all but demolished the equity market, but they do not know how to allow for that in their forecasts.

Consumer surveys are another important tool that has been behaving peculiarly in the past year. Consumer optimism, as measured in survey indexes, slid to recession levels, touching the lowest points ever recorded. On the basis of past experience, this should have led to severe retrenchment in spending, and a substantial number of economists predicted just that. Instead, high prices seem to have forced consumers to spend more than they intended just to maintain living standards. Jay Schmiedeskamp, consumer survey director of Michigan University's Survey Research Center, says resignedly: "Let's face it. One of the problems of consumer surveying is that we are in a completely new ball game as far as consumer behavior is concerned."

Yet another case of deceitful statistics is the operating rate of U.S. industry. Traditionally, a high operating rate has indicated mounting inflationary pressure. A relatively low rate has meant that there was ample slack in the system to take care of growing demand.

But in the first quarter of 1973, just when inflation was beginning to pick up speed, the Federal Reserve's index of capacity utilization in manufacturing registered only 81.3% (since revised to 82.9%). This over-all figure concealed what was going on in basic materials. When the Fed came up with a new series in late summer, economists suddenly realized that major materials industries were operating at 93% of capacity—the tightest utilization rate since World War II.

Improved statistics, like the new capacity

series, will help economists work their way out of the trap. But the problem is much more fundamental than just flaky figures. The basic technique of forecasting is to observe the past and look for clues to what will happen in the future. But there is nothing in the past comparable to the inflation-wracked, shortage-ridden U.S. economy of today. The forecaster must work without analogies, which is to say, he must work in the dark.

NO HELP FROM THE PAST

This is particularly hard on the econometric forecasters, the economists who build huge mathematical structures representing the interrelations of various elements in the economy. The equations for forecasting automobile sales, for example, have been built up from years of data on actual sales. They state an assumed relationship among sales and the growth of incomes, the state of business, and a number of other factors that influence buyers. The statement was accurate in past years, but the fuel crisis has changed the rules. The problem now is to factor in the fuel crisis, but nothing in past experience suggests how this can be done. The forecasters know that the rising price of gasoline will encourage buyers to shift to smaller cars. At some point, the rise in fuel costs will affect total sales of automobiles. But how much?

The judgmental forecasters—the seat-of-the-pants analysts—have not done much better than the econometricians. They, too, must look to the past, and it tells them very little that is relevant today. They can make an arbitrary allowance for the effects of higher gas prices, but so can the model makers. When the computer spins out something that does not square with common sense, the econometricians never hesitate to introduce a "fudge" or "fiddle" factor. The basic trouble today is that forecasters need something more than fudges and fiddles. They need new insights into a complex world that is not analogous to anything in the past. They need a sweeping advance in economic theory.

Today's economic theory is a massive body of thought that began building two centuries ago when Adam Smith tried to describe the way a market economy sets prices, allocates resources, and satisfies demand. Smith's free market economics was elaborated on by David Ricardo, footnoted by Parson Thomas Malthus with his concern with excessive population growth, and contradicted and stood on its head by Karl Marx, who nevertheless contributed some important insights. It probably reached its peak in the elegant formulations of Alfred Marshall, whose scissor-shaped curves still serve as a portrait of the "law" of supply and demand.

The complex world of the 20th Century forced more and more changes in Smith's concept of a world in which an "invisible hand" coordinated the self-serving decisions of individuals to produce optimum results for all. Irving Fisher, a pioneer in the invention of index numbers, stressed the relation between price changes and the money stock, thereby introducing to America the line of thinking later elaborated by Milton Friedman and the monetarists. He also made significant contributions to interest rate theory. Joseph A. Schumpeter showed that big business rather than "free enterprise" explained the gigantic progress in economic development and technological innovation, and he argued that the clustering of innovation and therefore of investment was the basic cause of the business cycle.

THE LIMITS OF THEORY

In 1936 John Maynard Keynes demonstrated to a world sunk in what looked like permanent depression that an economy could stabilize at levels far below maximum employment and production. The unseen hand could fumble, and if nothing was done about it, the Marxian prophecy of total collapse might come to pass. The remedy Keynes suggested—aggressive government spending —became the almost universal prescription for economic policymakers. Neo-Keynesians amplified and modified the doctrine, and out of it eventually came the "new economics" of the Kennedy and Johnson administrations—the belief that through fiscal and monetary policy the government could steer the economy at high speed along the road of noninflationary growth.

As a body of thinking, economic theory is still sound. There is nothing wrong with Marshall's supply and demand curves or Fisher's price indexes, nothing wrong with Ricardo's principle of comparative advantage, nothing wrong with Keynes' proof that economies can get caught in a sort of stagnant stability. The trouble is that economic theory does not tell us much about what is going to happen in the world in the next six months or the next two years.

The basic difficulty, of course, is that the world changes too quickly. Yesterday's shrewd observation becomes today's fallacy. The economists are not dealing with constants. As Robert M. Solow of Massachusetts Institute of Technology says, "One advantage the physicist has over the economist is that the velocity of light has not changed over the past thousands of years, while what was in the 1950s and 1960s a good wage and price equation is no longer so."

In particular, three great changes have overwhelmed economic theory in recent years:

Inflation has become a dominating influence, instead of just an irritating aberration, in practically all the industrialized economies.

Serious supply shortages have developed, especially in basic materials.

International markets and international money flows often override national economic policies.

These changes have not invalidated the old theories. But they have deprived the economic analyst of one of his most useful devices: the *ceteris paribus* assumption, the stipulation that other things must remain unchanged for a theory to work. In the modern world, other things are moving far too fast to be locked up in what Marshall called the "pound" of *ceteris paribus*. The challenge that faces economists today is to incorporate these changes into the theories.

Much of the most fruitful work in economics in the past 40 years has been directed toward stimulating growth. Since the Great Depression, the government of every major nation has formally acknowledged responsibility for maintaining maximum levels of employment, production, and incomes. In combination with the trend toward regulation and intervention, this has created what is usually called a "mixed economy," a system in which performance at any time is determined not only by the market and the interaction of producers and consumers but also by government policy.

Government has moved more and more toward modifying the market system by establishing welfare programs, subsidies, and unemployment insurance and by providing a variety of public goods and services. Even when the economic policymakers are willing to clamp down—which they often are not—the mixed economy has a strong inflationary bias.

Says Nobel laureate Paul A. Samuelson: "It is a terrible blemish on the mixed economy and a sad reflection on my generation of economists that we're not the Merlins that can solve the problem. Inflation is deep in the nature of the welfare state. Even when there is slack in the system, unemployment doesn't exert downward pressure on prices the way it did under 'cruel capitalism.' But I don't think that anyone wants to turn the clock back."

Professor James Tobin of Yale, a veteran of the Council of Economic Advisers, goes further. In his recent book, *The New Economics One Decade Older*, he maintains that no President or political candidate from either major party has ever dared to admit to the people that price stability and full employment are incompatible goals.

Not only does it appear that inflation is the price of full-employment, but the price seems to be getting higher all the time. The idea of a trade-off between the unemployment rate and the inflation rate was developed in the late 1950s by A. W. Phillips, a British economist, who studied unemployment and wage rates in England over a full century. The Phillips Curve presented economists and policymakers with a neat picture of various rates of unemployment, each associated with a level of inflation. The curve sloping downward to the right indicated that the lower the unemployment rate, the higher inflation rate would be. This is certainly still true, but now it appears that the whole curve has shifted upward. Each level of employment seems to be associated with a higher rate of inflation.

One reason for the change, suggests Solow, is the successful record of avoiding serious depressions since World War II. "The fear of unemployment and excess capacity in substantial amounts for long periods of time has now disappeared," he says. "People have less inclination to hold back on price and wage demands in the fear that goods or workers can be priced out of the market."

President-elect Robert Aaron Gordon of the American Economic Assn. says, "The very success with full employment policy is building an increasingly strong inflation potential into the economy." He believes that this is also connected with the growth of unionization and the spillover to the nonunionized sector of the economy. But Otto Eckstein and Roger Brinner conclude in a paper presented to the Joint Economic Committee: "On the whole, the degree of unionization has not changed significantly in the last 15 years. . . . The relative bargaining power of business and labor, at given economic conditions, does not seem to have changed measurably."

Whatever the causes, the inflationary bias of today's economy is a problem for theorists and forecasters alike. Economic theory is at its best when it is describing equilibrium positions, in which supply is equal to demand and prices are clearing the market. But, argues Tobin, the behavior of the economy in the past few years has been characteristic of a system in disequilibrium: Markets are not cleared, supply does not equal demand. "Lots of people are working on the dynamics of markets," he observes, "but it's going to be a long time before this gets synthesized into current theoretical structure."

THE NEW SCARCITIES

Like inflation, the sudden shortages of key materials catch economic theory in a weak spot. When modern theory was born in the 1930s, materials, like manpower, were abundant. No one wasted much time on theories describing a world in which fuel, energy, steel, timber, and a variety of other staples would be painfully short.

Sir John R. Hicks, a Nobel winner, noted in a 1936 review of Keynes's *General Theory of Employment, Interest and Money* that in its overriding concern with stimulating demand, Keynesian theory neglected the supply side of the equation. But it took nearly 40 years for the deficiency that troubled Hicks and others to catch up with the forecasters. The recent shortages in key materials and capital equipment have suddenly made the supply side of the equation intensely important because they not only contribute to sudden price jumps but also limit the ability of the economy to grow. Says Gordon: "The forecasters fell flat on their faces

in predicting price changes because they didn't have any way of estimating sectoral supply scarcity."

This may or may not be a short-term phenomenon, but at the moment, the econometricians are hustling to take account of it. Otto Eckstein of Data Resources, Inc., concedes, "We are always one inflation too late in specifying the exact form of the price forecasting equations." He has built into his own DRI model an implicit stage-of-processing approach to prices. His previous forecasting model, like most others, used wages as the basic ingredient for determining prices, with some modifications for capacity utilization and productivity increases. The new approach focuses on raw material commodity prices, moves to semifinished goods, and then to wholesale and retail prices.

THE SHRINKING ECONOMIC WORLD

In some respects, the supply problems that now beset the U.S. economy are part of a larger change. The world has gone a long way toward unification, economically if not politically, in the years since World War II. With trade barriers coming down and with all currencies freely convertible into one another, a world economy is evolving, and it is something different from the sum of the national systems that make it up. Economic theory is not yet ready to deal with the huge flows of goods and capital that it generates.

Classic theory begins with the behavior of individuals and firms (microeconomics) and then goes on to describe the behavior of a national economy (macroeconomics). The links between two or more economies have traditionally been assigned to the theory of international trade. For generations, economics courses in U.S. colleges have been split into two parts: Economics 101 (Macro) and Economics 102 (Micro) with international trade as an elective. The economics of the future may very well begin with the world and work back down.

The fault of the theory again creates a fault in the forecasts. "At present, especially in the U.S.," says Arthur B. Laffer of the University of Chicago "the preponderance of models of economic behavior as well as economic policies are geared to the assumption that individual countries' markets are principally independent of each other, that there is no such thing as a unique world market."

The current models of the U.S. are basically closed-economy models that make only a gesture toward foreign trade. By and large, their foreign sector consists of only two equations—one for total imports and one for total exports. A key factor in determining each is the domestic price relative to the foreign price. Foreign prices are assumed, while domestic prices are determined by the overall model.

What happens to such a model when the exchange rate of the dollar changes relative to other currencies, when foreign demand surges into the U.S. market, when supplier cartels in oil and bauxite hold a gun on customers? The slaughter of the forecasters, that's what.

In the beginning, of course, it did not matter much. From the end of World War II to around 1960, it was safe to treat the U.S. as a closed economy. Only 4% of the total GNP was sold overseas, and only 3% of the value of the GNP was bought abroad.

Even in the next decade, when the balance of payments swung strongly against the U.S., due mainly to capital movements, economists continued to think in terms of national units. The focus was on the international payments problem—how to finance the deficits without lessening the international role of the dollar and how to stop the outflow of gold.

LINKING THE MODELS

The double devaluation of the dollar, the floating of all currencies, and the development of a worldwide business boom finally drove the lesson home. Devaluation made U.S. goods relatively cheap compared to foreign goods. Foreign demand exploded into U.S. markets and to a great extent accounted for the upsurge in agricultural and industrial wholesale prices.

Model builders are now trying to incorporate foreign demand into their forecasting machinery. But it is not easy. With the dollar floating, they must forecast exchange rates as well as prices. And they must somehow allow for the fact that exchange rates will be changed by the very demand factors they are trying to forecast.

The dilemma has given a sudden new push to a project begun five years ago by Lawrence R. Klein of the University of Pennsylvania, who developed the Wharton model. Klein hooks together the models of the major countries and arrives at a world forecast consistent with the forecasts for each individual country. The main objects of the project are to see how the business cycle and inflation are transmitted through trade and how world trade patterns react to shocks like the oil crisis.

In Project Link, the computer-generated models developed independently by experts in each country are linked and solved simultaneously. Invariably, exports come out too high. The "linkers," using the best judgment of economists from the individual countries have export estimates. They also try to guess what steps policymakers will take to shore up their economies—import controls, for instance, or tax changes. These new factors are plugged in, and the model is rerun until world exports equal world imports, and the GNP estimates look reasonable.

But the model has some serious holes. It does not yet have a mechanism for determining exchange rates, international money flows, or most world commodity prices.

Much of what remains to be done is in the field of international money. Economists have never dealt with anything like today's huge flows of short-term capital from one market to another. They do not really understand the Eurodollar market, now estimated—very shakily—at $170-billion. They cannot agree on whether Eurodollars are limited to the actual amount of dollars sent overseas or can be created by fractional reserve banking, just as dollars in the U.S. are. They cannot tell whether the flow of funds into and out of the U.S. frustrates Federal Reserve policy. They have not yet decided whether floating rates give a country more or less freedom in determining levels of production, inflation, and employment at home.

THE FUTURE OF FORECASTING

Economists all over the world are now trying to come up with theories that will explain this strange, frightening world of inflation, shortages, and international repercussions. Obviously, the one who can put it all together and achieve a new insight will sit with the saints.

A number of economists think the basic trouble is that they are defining their science too narrowly. Robert J. Heilbroner of the New School for Social Research sums up this viewpoint: "Economists are beginning to realize that they have built a rather elaborate edifice on rather insubstantial, narrow foundations." In his opinion, economics must resume its original name, "political economy," and draw on political science, sociology, and psychology as well as on its own traditions. The result would be an eclectic theory that "asks questions economics doesn't ask and answers some questions that conventional economics asks in a rather unconventional way."

Others argue that the answer does not lie in widening the foundations but in strengthening those already in place—that is to say, in going back to microeconomics. Says Nobel winner Kenneth Arrow: "The weakness in inflation theory goes right down to the micro level, to the theory of price determination at the level of the individual firm."

Most economists, however, think there will be no great breakthrough in any area of economics. "There are no signs," says Samuelson, "that we're converging toward a philosopher's stone that will cause all the pieces to fall neatly into place."

"There's no new Keynes on the horizon," says Tobin. "I'm afraid that we're in for a long period of slogging it out with a lot of complex problems."

Meanwhile, there is the bread-and-butter problem of forecasting tomorrow. Says Eckstein: "I'm not going to wait for some political economist to solve the relationship between power, class structure, and the economy before I turn my model loose to get a GNP forecast."

PRIVACY ABUSE OF SENSITIVE MEDICAL AND PSYCHIATRIC RECORDS

Mr. PERCY. Mr. President, I have received a number of letters from people who are shocked by the careless communication of medical and psychiatric records. Many insurance investigators, it seems, persist in prying information about individuals from their doctors. Doctor-patient confidentiality suffers as a result. Once-private data can end up in the hands of employers, for example, without our knowledge or approval. This is wrong. It is also damaging, and it is causing a decline in the quality of medical and psychiatric records.

I have received the text of a speech delivered by Benjamin Lipson at the Life Underwriter's Sales Congress. Mr. Lipson surveyed 247 psychiatrists practicing in Massachusetts and found that many are reluctant to make accurate disclosures of patient information to insurance companies. They fear misinterpretation of psychiatric records and unjustified discrimination by life insurance companies and others against their patients. The result is a decay in the quality of highly sensitive information that ought to be maintained accurately.

Mr. Lipson suggests several reforms that could be implemented by the insurance industry to improve the quality of the health data they keep. First, insurance companies should have a clinically trained staff psychiatrist to evaluate psychiatric cases. Second, the insurance industry should develop improved reporting forms that require a physician's professional judgment about the relationship of a psychiatric illness to the shortening of life expectancy. These steps would permit insurance companies a more accurate assessment of the risks they face. Even more important, though, would be a smaller risk to the individual that misleading and even false information of a highly confidential nature will be spread about recklessly.

Mr. President, I would like to share excerpts from Mr. Lipson's address, and I request unanimous consent that these be in the RECORD.

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

IRRATIONAL UNDERWRITING

(By Benjamin Lipson, Benjamin Lipson Insurance Agency, Boston, Mass.)

It's hard to believe the insurance industry continues to practice a form of discrimination

resulting in outright rejection or unfair ratings of a vast majority of applicants who have had mental health problems.

Many are so heavily rated that Life Insurance costs are unduly burdensome, some cannot get adequate amounts of insurance and some cannot get any.

Many Americans are afraid to seek needed psychiatric help. They quite properly fear that when they first enter the doctor's office they are automatically in trouble with the underwriters and their insurability is placed is jeopardy.

The Lipson Insurance Agency, because it specializes in the placement of difficult life insurance cases, recently undertook and completed a pilot research project among psychiatrists in Massachusetts. Nearly 250 psychiatrists participated in this study. When I detail the survey findings, you will see unfolding the discrimination and blindness that exists in our business today.

I will ask you to join with me in demanding that the iron curtain of fear and stupidity be lifted so that all who seek insurance and are entitled to it shall be able to buy it at a fair and reasonable price.

Now why would insurance companies pass up vast fortunes in premium income that this market offers? Is it the actuarial experience that tells them so? I think not. We believe that underwriters paint almost everyone who has sought psychiatric help with the same broad brush. Sheer ignorance, built on years and years of fear for the very dreaded word "psychiatry".

DISCRIMINATION AND FEAR

I am not alone when I ask questions like this:

Is the life insurance business discriminating against people like you and me and our clients? The answer is "yes".

Are individuals who are currently in or have been in psychiatric treatment afraid to apply for life insurance? The answer is "yes".

Are these patient's psychiatrists afraid to release data to insurance companies because they fear breach of confidentiality? The answer is "yes".

Is the insurance industry protecting itself and its stockholders by its attitudes and underwriting practices? The answer is "no".

I undertake here and now to try to prove to you that on a straight dollars and cents basis, all human values aside, and, God knows the human values are enormous, life insurance companies are foregoing vasts amounts of premium income because of their rejection of people on whose necks someone has hung the albatross of psychiatric history.

WHAT HAPPENS WHEN A PSYCHIATRIC PATIENT APPLIES

At the outset I am going to over-simplify what I believe to be a typical case history and detail what usually happens when an individual who has had or is having psychiatric treatment applies for life insurance.

When Harry Smith applies for life insurance he may or may not disclose he had psychiatric treatment. On the one hand, his subconscious may blot this fact out of his mind at the time of the examination and he may not think it pertinent to his insurance. He may be afraid to talk about it, he may lie about it, or he may make a complete disclosure.

Should he fail to disclose his psychiatric treatment, he runs the risk of his policy being contested by the insurance company in the event of his death during the first two years of coverage, and further, under certain cases, if he were to die after the expiration of the contestable period, and if it was determined that the failure to disclose psychiatric history constituted fraud, the insurance company could void his contract.

Even if he does not disclose the history at the time of the examination as we all know there are other avenues of securing non-disclosed information such as physicians, hospitals, Medical Information Bureau, the retail credit check, or other insurance companies.

Let us assume that he discloses that he went to Dr. Friendly to whom the insurance company will send the Attending Physician's Statement. Since most psychiatrists are very busy, they tend to pay little attention to paper work. Some doctors charge between 40 and 60 dollars per hour; it does not make economic sense to consume their time with paper work for which the companies pay minimal fees. They, therefore, will often provide minimal information and will usually give a reason for the psychiatric treatment using such terms as "depression," "trauma," "emotional disturbance," 'neurosis," or other vague psychiatric terms. The method of treatment, such as psychotherapy, and medication such as various tranquilizers may be outlined.

The Attending Physician's Statement is then sent to the insurance company and in most cases it is first seen by a lay-underwriter who simply tags it with a rating from a manual. In some instances, the larger cases go to a senior or more experienced underwriter and the medical director of the insurance company.

The agent is then advised that his client either has to be rated or cannot get insurance at all. Then the fun really begins! How does the information get back to the applicant and his doctor without anyone getting hurt. It is just about impossible.

The agent's relationship with his client will never be the same. The doctor will fear that the sanctity of his confidential relationship with his patient will be polluted.

Upon occasion, however, some psychiatrists will then take the time and write a detailed letter to the insurance company giving the reasons behind the conditions that called for the psychiatric treatment such as emotional trauma at home, concern about one's sexual potency, job pressure, concern that one's spouse is having extra curricular marital activities, or a host of other reasons that mainly require the supportive action of a trained therapist.

Many of these situations are temporary in nature and the medication prescribed is only for a limited period of time.

There are other more serious psychiatric conditions which involve intensive therapy and at times hospitalization, but the outlook and prognosis even in these cases is much better than the insurance company thinks they will be.

Upon receipt of this additional data, it is very seldom that the original insurance company will reverse its decision, as any underwriter is loath to reverse himself.

However, with all this data there are other insurance companies who, looking at the case for the first time, may give the entire story a much better shake than the original insurance company.

If the poor unfortunate applicant happens to have a medical condition as well, such as diabetes, ulcers, hypertension, etc., he is in real trouble. The case is seen as too complex.

NO ONE ESCAPES EMOTIONAL PROBLEMS

With the preceding case as a background, I should like to give you my observations on the subject and I will then conclude with the results of the survey and how I interpret these results.

Is there a home or a business in America that at some point in time is not involved in an emotional trauma, depression, hostility, frustration, or expression of feelings that tend to undermine the tranquility of the family unit and interfere with the successful operation of a business?

Many of these situations work themselves out in time. In some situations, professional help is sought and in others that don't work themselves out and where no professional help is sought, deterioration sets in and the resultant adverse consequences take over.

Just why should the business man who seeks help for his problems or the husband and wife who seek help to keep their family together be penalized by the insurance industry?

Why should a stigma be attached to their identity as psychiatric patients?

Why are some considered lepers by the insurance industry?

An individual under psychiatric care presently or in the past for any reason—inpatient or out-patient—appears to be playing Russian roulette when applying for life insurance for the purpose of preserving his business or his family.

Why should the benefits of the life insurance product be denied or made difficult for this category of individual?

Why should they be demeaned in their humanitarian efforts to provide peace of mind for their families and businesses?

While the 1972 presidential campaign will be remembered for Watergate, let us not forget the Eagleton affair that came out of the 1972 presidential campaign. The fear of disclosure and misinterpretation of psychiatric treatment inhibited a United States Senator from talking freely about his condition and deprived him of the opportunity to run for the second highest office in the land.

WHAT PSYCHIATRISTS SAY

Let me now read to you several letters sent by psychiatrists along with their replies. No names will be quoted to protect their identity.

"Dear Mr. Lipson: I welcomed your inquiry because several of my patients have had difficulties with life insurance in the past and I felt very strongly that they were unjustly treated. In both cases they had conscientiously answered yes to questions about previous psychiatric treatments, and I hated to conclude that they would have saved themselves unnecessary trouble if they had lied or refused to answer.

In brief, both were in psychotherapy for personal problems that had absolutely no life-threatening (or even disabling, if it had been disability insurance) potential, and they were finally accepted after I had written several letters to this effect."

"Dear Mr. Lipson: One of the grievances that I have is that I never have used correct psychiatric diagnosis and always avoid depression or any mention of suicide when commenting for a patient's insurance risk. I have learned from experience that the minute this is picked up by insurance companies regardless of the consultation of the reasons of the participating event or the extenuating circumstances the insurance policy is declined. Therefore, you will probably note that I am not the only one that uses 'character and behavior disorders' when reporting to not only life insurance companies, but any insurance company.

I would like to see more accurate criteria developed by the underwriters and by life insurance companies in general, to very carefully distinguish between those patients which will have no bearings or shortening of their life expectancy as compared to medical diseases. In addition, I sometimes encourage people not to even tell their insurance company that they see a psychiatrist. That way it puts me in a position of having to send a report, and I always feel no report is better than a report that may reflect upon their case.

I am very happy to hear that you are undertaking a study in this area because very careful data collection and education, both of the underwriters as well as the private psychiatrist, should be undertaken."

REASONS PSYCHIATRISTS DON'T COMPLY

"The crucial issue is confidentiality. When the insurance company profit motive de-

mands public dissemination of private medical information, it is time to change the financing system, not subject people to humiliation and discrimination."

"Patients under psychiatric treatment are aware of the existence of some emotional problems and want to solve them. Some of those who do not, may be sick or emotionally ill."

"Psychiatric patients are discriminated against by life insurance companies, as well as many health carriers

"No awareness of underwriter's commitment to protect the patient."

"Diagnosis and record of treatment contact should be enough. Other information such as precipitating events are an invasion of patient's privacy."

"I believe that psychiatric patients are as good a risk in majority cases as the general population. Insurance companies' evaluation of risk do not keep pace with progress of medicine."

"Questions on insurance applicants asked not truly pertinent to psychiatric illness."

"No question about the fact that patients under psychiatric treatments are sometimes better risks than those who are not. Careful studies by insurance industry in Germany and other European countries show this conclusively."

"Medical information does not belong in the hands of clerks."

"Releasing of patient's medical records for life insurance purposes is, per se, a breach of medical confidentiality as it breaches the sanctity of medical confidentiality to promote a business (insurance) contract."

"I feel that insurance companies do not need this kind of information to determine insurability, and often misuse information supplied."

"It has not come up more than once or twice in my 25 years of practice. (I suppose my patients conceal it)."

"I believe the only reason for declining life insurance would be a suicidal risk. Most patients in treatment are not a suicidal risk. Most suicides have never seen a psychiatrist."

"They ask the wrong questions of psychiatrists. They should ask: Is there any reason to believe that the patient's emotional difficulties make him a poor risk?"

"The rising current of intrusion by insurance companies has been on the increase the last two years."

"Two major studies (Midtown Manhattan and Stirling County studies) have shown that about 80% of the people are in need of psychiatric treatment or medical health guidance—why penalize those who seek it?"

"I do not comply. I fear breach of confidentiality most important."

"Depends on nature of request and permission of patient. Companies often ask wrong questions—aren't equipped to translate medical terminology—need to find other ways to "state their business."

"Concern that psychiatric diagnosis may be misunderstood by nonpsychiatrists."

"Adequate data is not published to support practices of insurance companies. I have seen unnecessary discrimination for patients with even minor psychiatric history and I deplore this practice in the insurance industry."

"Your cause is a good one! Incidentally, I have two insurance underwriters in therapy at this time."

SURVEY RESULTS

Now I will detail for you the exact results of our survey replies from 247 psychiatrists practicing in Massachusetts.

35% indicate that they do not comply fully and promptly with requests for life insurance underwriting data.

43% feared that release of information to an insurance company could cause breach of confidentiality.

40% indicated that information in the wrong hands might unnecessarily prejudice patient's employment.

92% of the physicians (who furnish life insurance underwriting data to insurance companies) indicated that they believe that patients under psychiatric treatment are sometimes better risks than those who are not.

From our study we draw these net conclusions:

(1) The attending physicians are reluctant to comply fully with insurance company requests on their patients psychiatric history, as they justifiably feel that the confidentiality so vital to successful psychiatric treatment is oftentimes breached by the life underwriting process.

(2) Insurers do not possess the level of competence—or sufficiently accurate criteria on which to make prima facie judgments on applications and medical reports. Decisions are being made by untrained amateurs—too often resorting to the rating book for the final answer.

(3) Insurers are overlooking the fact that in most cases chronic psychological difficulties may have no bearing on shortening life expectancy.

(4) Many people under psychiatric care are better insurance risks than those who should be getting help but are not. Getting rated without in-depth case study, is a bitter pill to take.

RECOMMENDATIONS TO INSURANCE INDUSTRY

Now I ask the insurance industry to consider my suggested ideas for alleviating these problems:

1. Have a clinically trained experienced psychiatric director on your staff in addition to your medical director; or join forces with others to secure specialized evaluation of psychiatric cases.

2. Don't let a lay-underwriter pass on any case. Have the application reviewed by an expert.

3. Develop improved information gathering documents so that reports from attending physicians will yield more accurate information about the relationship of the malady to the shortening of life expectancy. Solid clinical and social data will eliminate guess work.

If you were starting in the life insurance business today, not as an agent, but as a company, you might ask yourself where is there a special market opportunity? You might ponder figures which suggest that many millions of Americans are in need of psychiatric treatment or mental health guidance.

These are people the psychiatrists say may be suffering from chronic psychological difficulties which have no bearing on the shortening of their life expectancy.

These are people who when treated for their illness may be better risks than those not under treatment.

These are people who can be made friends of the company and industry.

Now I realize that it is easy for me to make these recommendations . . . That it is easy for me to offer solutions to the problem of underwriting the psychiatric case. And as easy as it is for me to make these suggestions, that's how hard it is for the companies to follow them. I am no psychiatrist . . . I am just an insurance broker from Boston who specializes in the placement of difficult life insurance cases, but here and now I plead that our industry join forces with the American Psychiatric Association to expand this data and to preserve the rights and integrity of these individuals.

The Stain on Our Industry That Produces Immorality Must Be Eradicated.

The Consumer Will Be Served.

Fairness and Justice Is Long Overdue.

UNEQUAL UTILITY RATE STRUCTURE

Mr. METCALF. Mr. President, on May 22, 1974, I inserted data in the CONGRESSIONAL RECORD—pages 16031–16034—pertaining to unequal utility rate structure. As printed in the RECORD, the chart accompanying the remarks contained several typographical errors. Therefore, I ask unanimous consent that the table listing 1972 average cost per kilowatt hour of class A and B utilities by class of service be corrected as follows in the permanent RECORD.

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

Utility name	Cents per kilowatthour			
	Residential	Commercial	Industrial	Overall sales
Indiana:				
Alcoa Generating Corp			0.4581	0.4581
Northern Indiana Public Service Co	2.6916	3.2275	1.2254	1.6551
Southern Indiana Gas & Electric Co	2.6143	2.1519	1.1833	1.8370
Iowa: Iowa Southern Utilities Co	2.7640	3.2697	1.5333	2.3827
Louisiana: Central Louisiana Electric Co., Inc	2.5156	2.7130	1.0803	1.9285
Maine: Maine Public Service Co	3.0327	3.2472	1.6543	2.6111
Maryland: Delmarva Power & Light Co. of Maryland	2.7340	2.9237	1.8439	2.5800
Massachusetts: Boston Gas Co	4.2888	3.2543	1.9837	2.6947
New Hampshire Public Service Co. of New Hampshire	2.6212	2.9496	1.3427	2.1156
New Jersey:				
Jersey Central Power & Light	2.8248	2.6489	1.4762	2.3659
Rockland Electric Co	3.0457	2.9768	1.6523	2.6153
New York:				
Central Hudson Gas & Electric	2.6111	2.7962	1.3907	2.1845
Orange & Rockland Utilities, Inc	3.0750	3.0955	1.7557	2.6360
Rochester Gas & Electric	2.6254	2.5314	1.8193	2.3747
Pennsylvania: Duquesne Light Co	2.9284	1.9642	1.2561	1.8558

A BALANCED FEDERAL BUDGET

Mr. MATHIAS. Mr. President, a number of us within the Congress, and a large portion of American citizens, have been concerned for many years about the size of the annual Federal budget deficit. Each of us knows that there is a large amount of waste in Government, as elsewhere. And each of us knows that if this waste were eliminated, the budget could be brought closer to a true balance of revenues with expenditures.

Toward this goal, a number of us recently wrote the President asking him to submit a special budget to the Congress which would earmark those programs which, in his opinion, should be reduced or eliminated so that the budget could be

balanced. Each of us might disagree with some of the President's recommendations, but this would give us a concrete proposal with which to work.

This effort complements the continuing efforts of the Appropriations Committee, on which I am privileged to serve, which was able, during the last fiscal year, to reduce total appropriations more than $3 billion below the amount requested by the executive branch. I am hopeful that we can do even better in the future, particularly since the Congress has now passed the Federal Budget Reform Act which will reform the way we deal with the huge Federal budget each year.

All of these actions are of special importance to the American citizen at this time of special economic strain. I ask unanimous consent that the letter which we recently wrote to the President, and his reply, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS,
Washington, D.C., June 19, 1974.

Hon. RICHARD M. NIXON,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: We, the undersigned members of the United States Senate, are deeply concerned about the financial crisis confronting the United States.

We are convinced that the spending practices of the federal government are a substantial contributing factor to the intolerable inflation which the nation is now experiencing.

As a result of continuing budget deficits, the debt of our country has risen almost $200 billion in the last ten years. We have sustained annual deficits, with a few notable exceptions, for the last 43 years. It is estimated that the national debt will exceed one half trillion dollars by the end of this year.

Respected economists are sounding dire warning of the results of continuation of our past and present spending practices.

We believe remedial, dramatic action is called for by the Administration and the Congress.

We believe the only way to turn the situation around is to bring an immediate halt to government spending in excess of government income.

Therefore, we respectfully request that you submit to us a proposed balanced budget for fiscal year 1975, incorporating changes in programs and funding of programs you believe necessary to meet that objective.

With such a budget available, we will be able to intelligently offer proposals for appropriation reductions, with the goal of attaining a balanced budget.

We consider this project of utmost importance and will appreciate your cooperation.

——— ———.

THE WHITE HOUSE,
Washington, D.C., June 24, 1974.

DEAR SENATORS: I welcome your letter of June 19 calling for a balanced budget. Needless to say, I certainly agree with the concern you express.

Over a year ago, when I submitted my budget for the fiscal year now ending, I stated, "The surest way to avoid inflation or higher taxes or both is for Congress to join me in a concerted effort to control Federal spending". That budget set out a series of administrative actions and proposed legislation to achieve necessary expenditure reductions.

I regret that Congress did not support either the actions I took to reserve various program funds or the cost reducing legislation and proposed terminations of wasteful federal programs that were set out in the 1974 budget. On the contrary, Congressional actions since that budget was submitted have added considerably to outlays for 1974 and especially for 1975.

You have asked that I submit proposed changes in programs and funding to meet the objective of a balanced budget for fiscal year 1975. We both know the difficult choices that must be made to restrain expenditures. Having indicated my own thinking in the budget submitted a year and a half ago, it would be my suggestion that the Congress reconsider the specific proposals made in that budget, along with the increased spending actions authorized and appropriated by the Congress since that time.

I would also take this occasion to strongly urge the Congress not to vote tax reductions. Such action would simply create an additional imbalance in the budget.

Finally, with regard to action in the Executive Branch I have instructed the Director of the Office of Management and Budget to do everything within his power to hold down 1975 expenditures, consistent with existing legislation, and to develop a budget for 1976 that will be in balance.

The American people should be encouraged to know that so many of their elected representatives in the Congress are taking a firm line on Government spending. I welcome your support.

Sincerely,

RICHARD NIXON.

DESERT CONSERVATION AREA

Mr. CRANSTON. Mr. President, one of the top environmental issues in California took a giant step forward this month with Senate passage of my bill S. 63, creating a 16 million acre desert conservation area in the southern part of the State, as an amendment to S. 424.

These vast desert lands do not have to be acquired the Federal Government already owns them. But they do have to be managed properly to preserve their unique resources for future generations.

The same desert that once seemed remote and limitless is being eroded by unrestricted use of off-road vehicles, criss-crossed with roads and utility rights-of-way, pockmarked by mining operations, littered with trash and debris, and plundered of its natural and scientific values.

My bill funds a Bureau of Land Management desert use study and gives BLM the enforcement authority it needs to make the plan work. Off road and other recreational vehicles will continue to use the desert in areas designated in the plan.

Desert dwellers, local government, recreationists, archeologists—everyone who now uses the desert—will have a say in the formulation of the plan through an advisory commission set up by my bill.

The House Interior Committee is now considering a companion bill.

THE ECONOMIC DEVELOPMENT ADMINISTRATION

Mr. BENTSEN. Mr. President, the Senate will soon consider legislation extending the authority of the Public Works and Economic Development Act of 1965. The Subcommittee on Economic Development, under the distinguished leadership of its chairman, Senator MONTOYA, has been diligently working on a bill, and I am confident that the measure will soon be reported to extend and strengthen the act.

Earlier this year, the White House announced its intention to terminate EDA in its present form and to introduce a system of revenue-sharing block grants. That decision elicited such widespread opposition that the Administration has now decided to withdraw its proposal.

Late last month, the House demonstrated its confidence in the EDA program by overwhelmingly approving a 2-year extension and a greater funding authorization. The House vote was 402 to 11.

Mr. President, I have long been a proponent of EDA and the concept that underlies it. I will be working to insure that the program is extended and strengthened with the funding needed for an expansion of its very productive efforts.

The Public Works and Economic Development Act was first enacted in 1965 to permit Federal assistance to areas and regions suffering high unemployment and underemployment. It emphasizes long-range planning for economic growth and provides technical assistance, public facility grants and loans, business loans and guarantees, and other needed tools to implement comprehensive development plans.

Since its inception, EDA has fostered healthy and productive ties between the Federal and local governments. It has meshed the resources of our public and private sectors and evoked a joint cooperation and enthusiasm almost without parallel in our Nation's history. It has increased employment, stimulated previously depressed economies, and generated a variety of flourishing enterprises.

I have, however, been most impressed with EDA's profound impact on the lives of individual Americans. EDA has given many Americans new pride, a pride that results from productive labor, steady employment, and a sure income. And, it has given those Americans hope, both for themselves and their home areas, where there was little hope before.

Mr. President, I have personally witnessed the impact of EDA in my home State of Texas. Within the past several years, a Council for South Texas Economic Progress—COSTEP—has been established. Business leaders have joined local government leaders in the endeavor to stimulate and promote economic growth in south Texas. Many of the projects proposed, however, would not have been possible without the financial assistance of EDA.

Thanks to EDA, a health and welfare center in Laredo has been built, a facility that will improve the health of the entire community. Another project in Laredo provided funding for paving and drainage construction which permitted the location of 12 new businesses and the generation of 160 new jobs. An EDA

grant permitted construction of a completely bilingual Texas State Technical Institute campus in Harlingen, and since its opening in 1969, the school has placed more than 4,000 students in better paying jobs. In Corpus Christi, EDA assistance has generated 640 jobs and helped establish 139 minority businesses.

These are only a few of the many EDA-assisted projects in Texas. Without the seed money provided by EDA. I fear that very few would have been possible.

Mr. President, Lyndon Johnson has said that he was most proud of the educational assistance programs enacted during his Presidency. I believe, however, that EDA—and the impact it has had on the lives of so many of our citizens—is an equally important part of his legacy, and I shall join Senator MONTOYA and his subcommittee to insure its continuation.

I urge my colleagues to examine the profound impact of EDA on so many areas of our Nation and to support an extension and expansion of the EDA program.

MONEY NOOSE TIGHTENS AND TIGHTENS

Mr. McINTYRE. Mr. President, the Washington Post today concluded an excellent five-part series by James L. Rowe, Jr. on the compounding difficulties of the financial industry to operate in an orderly fashion at a time of exorbitant inflation and tremendous competition for funds.

The Subcommittee on Financial Institutions will shortly hold hearings to explore these problems in further details as part of the continuing examination into structural reform within the financial industry.

Mr. President, I ask unanimous consent that this series be printed in the RECORD.

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

[From the Washington Post, July 7, 1974]

FUND CRUNCH HITS HOUSING ONCE AGAIN

(By James L. Rowe Jr.)

Interest rates have skyrocketed to record levels, mortgage funds are drying up and the home building industry is close to chaos.

While the situation seems more tense than usual, the current housing crunch is only the latest installment in a saga that has been played out four times in the last eight years.

When the Federal Reserve Board tightens its monetary policy and allows interest rates to rise to fight inflation, those high interest rates invariably choke off home buying and new-home building before they batten down prices.

Although most companies face dislocations because of ups and downs in the business cycle, those associated with the housing industry of late seem to be particularly volatile. Home sales are dependent on the availability of financing and the cost of that financing. It is the rare consumer who can buy a home without taking out a mortgage loan.

When interest rates rise, as they are now doing, home buyers are discouraged—not only by the high cost of money—but by its scarcity. Savings and loan associations, which make more than half of the home loan mortgages, discover that, during periods of high interest rates, the flow of new deposits slows substantially and, in some months, customers actually withdraw more money than they put into their accounts.

The Department of Housing and Urban Development estimates that the amount of money available for home loan mortgages fell to $14.8 billion in the first three months of the year from $15.5 billion during the last quarter of 1973. "It's safe to say it fell further during the second quarter," said HUD housing specialist Rudy Penner.

Scarce money first strikes at buyers and sellers of older or previously occupied homes. Before they break ground, new-home builders generally get guarantees from a savings and loan or bank that there will be money available for qualified buyers when the homes are built.

But buyers of older homes cannot go looking for financing until they have found the home they wish to purchase. Today, those buyers face not only high interest rates but financial institutions reluctant to make loans because they are husbanding their funds to make good on commitments made to builders months or even years before.

"We've pretty much been out of the market since last July," said Henry L. Bouscaren, senior vice president of National Permanent Federal Savings and Loan, the area's second biggest S&L.

Serious home buyers, when they can find an institution willing to lend them money, are often faced with interest rates of 9 or 9.5 per cent and down payment requirements of 25 or 30 per cent. It becomes even harder to find loans in states with usury laws that put ceilings on the amount of interest a home buyer may be charged.

Maryland just raised its usury ceiling from 8 to 10 per cent and the District of Columbia is contemplating a similar change.

In addition to scarce money and rapidly rising interest rates, home buyers are shying off because of rapidly rising prices both for previously occupied homes and for new homes.

It is mainly because of the financial obstacles that the homebuilding industry is in its worst shape for decades, according to the chief economist of the National Association of Home Builders, Michael Sumichrast.

One sign of this is the sharp increase in construction firm failures for the first four months of this year to 580 from 433 last year, according to Sumichrast. The impact of those failures totalled $150.8 million compared with $101.1 million in 1973.

Nationwide, builders have 449,000 unsold homes and, as long as prices and interest rates are high, they will have trouble whittling that number down.

Builders, who were starting units at an annual rate of 2.33 million in May 1973, slowed to a 1.45 million pace last month, according to Commerce Department figures. Moreover, building permits, an indication of future housing starts, tapered off to a 1.055 million annual rate in May, down substantially from 1.838 million in May 1973.

The dropoff reflects not only the high inventory of unsold homes, but the inability of savings and loans or other financial institutions to guarantee builders that they will finance purchase of the homes when completed.

The gyrations of home building add other innumerable costs to the economy that are hard to calculate. For example, when skilled laborers take non-construction jobs during bust periods, they are often lost to the permanent home-building labor force.

The ups and downs of the housing industry are caused in part by the same factors that produce other industries' good and bad periods. But the normal cycles of the industry are sharply magnified because the builders rely so heavily on financing from the savings and loan industry.

Savings and loan associations, whose assets are primarily tied up in long-term mortgages with fixed interest rates, find themselves ill-equipped to pay competitive rates on deposits during periods of rapidly rising interest rates.

When interest rates zoom, as is now the case, S&Ls have to hold off making new mortgage loans because of the trailoff—and sometimes net decline—in deposits.

According to the United States League of Savings Associations, S&Ls had a net decline in deposits of $204 million in April and a gain of $350 million in May. Early indications are that the S&Ls fell back into a net outflow situation in June.

So far this year, the gain in deposits is 30 per cent below last year's and mortgage loans made by those institutions are off by 20.4 per cent.

Mutual savings banks have lost even more deposits than savings and loan associations.

The Nixon administration has proposed a plan, based on a 1971 report of a Presidential commission, to solve the problems by substantially overhauling the nation's financial structure. But even if the administration's plan would work, it is a long way from fruition.

In the meantime, the effects of tight money on the mortgage market present economic policy makers with the dilemma of how to fight inflation by concentrating on high interest rates without simultaneously upsetting the critical and politically sensitive housing sector.

Arthur F. Burns, whose Federal Reserve Board is primarily responsible for pursuing higher interest rates to fight inflation, told reporters in a rare press conference last April that combatting rising prices is more important than the "fortunes of home building."

The government knows that it cannot sit by and do nothing: the housing lobby is too well organized for that.

The Federal Home Loan Bank Board, which regulates the savings and loan industry in much the same way the Federal Reserve system oversees the nation's banks, has been lending money to S&Ls to help replace the deposits they have lost.

In total, according to bank board chairman Thomas R. Bomar, the system has $17 billion in loans (called advances) outstanding to S&Ls.

The Nixon administration also has announced a special program designed to inject $10.3 billion in various ways to help ease the crunch.

Rick Sullivan, an official of Page Corp., an area builder, said his firm has been able to make use of some of that money promised by the administration. The program that Page, a subsidiary of U.S. Home Corp., uses is a $3 billion commitment by the Federal Home Loan Mortgage Corp. designed to permit home builders to "start houses with confidence."

The FHLMC guarantees that it will buy the mortgage from the S&L which makes the loan up to 12 months from the date the S&L makes its commitment to the home builder. In a sense, then, the savings and loan association acts as a broker.

Sullivan said that, while his sales are not suffering terribly, purchasers are adverse to paying 10 per cent for a mortgage. Many savings and loan associations are making it together for potential home buyers to "qualify" for a loan, he added.

Sullivan said his company, which builds "starter homes" aimed at young couples, can utilize the special mortgage corporation program because nearly all the mortgages are under the $35,000 ceiling specified by the government. Page built the Cinnamon Tree complex of homes in Columbia, Md.

Other builders, selling more expensive homes, cannot be guaranteed the financing

under that program because of the $35,000 limit. They are not beginning new projects.

Most projects, however, have guaranteed financing now, although new projects are having their difficulties. Purchasing a home that is already occupied is getting close to impossible.

Lack of financing has transformed many a would-be seller into a reluctant landlord, often renting his home to the very person who would buy it if mortgage money were available.

"When someone comes to me and tells me he wants to sell his house, the first thing I ask him is if he needs cash," said an official of Shannon and Luchs, a major area real estate firm. If he is moving into an apartment, "I suggest that he finance" the buyer himself.

The situation of a Washington professional who could get normal financing neither for the house he bought nor for the house he sold is illustrative. He became the "reluctant" financer of the couple which bought his house just as the retired chemist he purchased his new house from financed him.

He bought a $68,000 house in Northwest Washington and sold his $57,000 house on which he had $17,300 remaining to pay off on his mortgage. The chemist wanted a down payment of $15,000, a lower one than normal.

After cashing in $2,500 in mutual fund shares and taking out $3,000 in savings, the professional needed $9,500 for the down payment plus $17,300 to pay off his mortgage. He found a couple who put together enough between their savings and loans from their families to come up with nearly half of the $57,000 purchase price. He is financing the rest at 8 per cent interest, the legal limit in the District.

"It was hairy getting down to closing day," he said. "Trying to figure out all your money, to make sure you were getting enough. I had to learn a lot more about real estate financing than I ever wanted to know."

In some sense, he was luckier than most who try to finance their homes. He found a couple with more than $25,000 who was willing to buy a $57,000 house.

"Most people with $25,000 or $30,000 to put down are looking for a $100,000 or a $125,000 home," one real estate agent said. "It's a real scramble to find financing. It used to be if you sell one, you settled one. Now you may sell two, but only settle one because the other one cannot get financing. We're having to work a lot harder."

As a result, homes are remaining on the market for weeks or months, when, two years ago they would have been sold in several weeks.

"We tell 50 people a day that we can't make them a loan," said an official of another major S&L. "We won't make any commitments to home builders and we're scrambling for money to make sure we honor commitments we already made."

[From the Washington Post, July 8, 1974]

LINKS OF HOUSING, THRIFT INDUSTRIES BRING TROUBLE TO BOTH

(By James L. Rowe, Jr.)

The interdependence of the housing industry and the thrift institutions—savings and loans and savings banks—creates problems for both in a time of tight money and high interest rates because many deposits flee thrift institutions in search of higher returns elsewhere.

Big investors, such as corporations and millionaires—have always had investment opportunities. But smaller savers of late have been moving their funds around.

Those with $10,000 or more to invest have been buying short-term Treasury bills at a weekly clip of about $700 million. The bills have been yielding about 8 per cent.

To capture some of that money, the parent corporation of First National City Bank of New York will offer $850 million of notes yielding more than Treasury bills. The investor only needs $5,000 to buy in and can redeem the notes every six months if the Treasury bill rate declines.

Savings and loan associations complain the Citicorp offering will attract money from their coffers. The plan has already spread. Chase Manhattan Corp, announced a similar $200 million offering.

Savings and loans are only one of many types of financial institutions servicing the nation's credit needs. There are, as well, commercial banks (which have business customers and individual savings accounts), mutual savings banks, credit unions and life insurance companies.

All but the credit unions make some home loans. But, for the past several decades, home mortgage financing has become the special province of the S&Ls.

Since World War II, commercial banks have shied away from making home mortgage loans to avoid a concentration of large parts of their loan portfolios in long-term commitments. Savings and loans, on the other hand, are permitted special tax breaks only if they have more than 60 per cent of their assets in home mortgages.

To get the maximum break, they must have 82 per cent of their portfolio in residential loans. This has made them fierce competitors for home mortgages.

Mutual savings banks also do most of their lending to home buyers, but these banks exist only in 18 states and do not make nearly as many loans as the bigger S&Ls.

A quick look at the figures demonstrates the importance of S&Ls to home building. At the end of 1973, S&Ls held $188.05 billion of the $386,489 billion of mortgages outstanding on one-to-four-family dwellings. That was nearly three times commercial bank holdings of $67.998 billion and more than four times the mutual savings banks' mortgages of $44.247 billion.

The figures are even more decisive for recent years. Last year, S&Ls wrote 59.6 per cent of all mortgages made through non-government channels, a total of $19.2 billion. That was 51.3 per cent of all home loans, including government ones.

In 1972, when builders started a record 2.357 million housing units, savings and loans made 60 per cent of all new mortgage loans—$22.9 billion of $38 billion—and accounted for 66.9 per cent of all privately made mortgages.

Although savings and loans have existed for well over a century as institutions specializing in housing finance, they have become dominant in housing finance only since World War II. By the end of last year, their assets of $272 billion were second only to commercial banks, who had resources of $835 billion.

In the relatively calm financial period between 1946 and 1966, savings and loan associations flourished. While commercial banks did not abandon home mortgages, the increasingly affluent American home buyer began to turn to S&Ls.

Commercial banks did not actively compete for savings deposits until the 1960s because they had large quantities of lendable funds and relied heavily on checking deposits for which they paid no interest. Savings and loans offered higher interest rates to savers and attracted many consumer savings accounts.

S&Ls could not make money unless they reinvested their deposits in earning assets. Since they were restricted by law to investing mainly in housing, they became aggressive seekers of home buyers, to whom they could make loans.

As savings and loans have increased their deposits (30-fold since World War II, while banks have increased theirs five-fold), more and more citizens became home owners.

In 1940, 43.6 per cent of the population owned their own homes. In 1970, 62.9 per cent did.

In 1966, however, trouble began for the S&Ls. Money got tight that year as the Federal Reserve Board tried to fight inflation by raising interest rates. Interest rates on short-term securities rose to or above the levels savings and loans were paying on their deposits.

Savers began to take their money out of S&Ls and put it into investments which gave them a higher rate of return. For the first time since World War II, the steady growth of S&L savings came to a halt. Not counting interest paid depositors, S&Ls had net withdrawals of $1.37 billion, according to the U.S. League of Savings Associations.

In 1969, a tight money period re-appeared, and again savers began to take their money out of S&Ls. The institutions suffered net withdrawals of $2.37 billion that year.

In the summer and fall of 1973, S&Ls lost several billions of dollars, but for the year as a whole had net savings of $8.48 billion, well below the $22.4 billion of 1972 and $19.72 billion of 1971.

Economists call this type of money outflow "disinter-medation." It can happen to commercial banks, S&Ls, savings banks, credit unions or life insurance companies.

All these institutions are financial "intermediaries," that is, standing between savers and borrowers. They accept deposits from the public and re-lend those deposits to individuals, corporations or governments needing credit. The intermediaries pay their bills and make their profits from the difference between what they pay savers and what they charge borrowers.

When interest rates rise rapidly, however, these intermediaries often find it difficult to increase the earnings of their assets fast enough to be able to offer potential savers a high enough return on their money.

Some investors, then, take their money out of banks or S&Ls and place their funds directly in the market by purchasing bonds from corporations, government securities such as Treasury bills, or any of a variety of devices (called debt instruments) issued by companies to raise money.

The potential for disintermediation from the new offering by the parent company of First National City Bank of New York is overwhelming. For $5,000, a small investor can get a yield that is a percentage point higher than the Treasury bill rate.

The Citicorp offering has sent shudders down the spines of savings and loan associations officials, who fear that most of the money will come from their coffers. The bank regulators do not like the offering by the bank holding company, but say they are unable to regulate it under current law.

The small investors' response has been "tremendous," according to Leslie Silverstone, vice president of the brokerage firm of Dean, Witter and Co. "They initially filed for $250 million, then upped it to $850 million—that should be indicative," Silverstone said.

Disintermediation tends to strike S&Ls and mutual savings banks the hardest because they are least able to accelerate the rates they can pay savers. The reason: so much of their assets is tied up in long-term mortgages with fixed interest charges.

"We've still got a lot of mortgages yielding us as low as 4 per cent," one official of a large area S&L said. His problem is typical.

"If I raise the interest on my passbook accounts, like we did when the government said we could last summer, I increase my costs across the board, but I only get bigger earnings on the new mortgages I make," another official said. Furthermore, he said, it is doubtful that the slight increase in

rates picked up much more money for his institution.

Banks tend to suffer less because many of their assets are in short-term loans, and a sizeable portion of their lending has an interest charge that goes up and down as other market rates go up and down.

Norman Strunk, executive director of the U.S. League of Savings Associations, contends that disintermediation is not as "deep and persistent and pernicious as it seems to be." He said it is primarily a phenomenon experienced in larger cities. S&Ls are not hurt by it, he said, but "if I'm a home builder or house buyer, it's bad. With disintermediation or the threat of it, there's a lot less money to lend."

In April, when S&Ls had net deposit losses of $204 million out of total deposits of $230 billion, mutual savings banks had net outflows of $600 million on deposits of less than $100 billion. Mutual savings banks are concentrated in the Northeast and in cities, places where savers are generally more aware of other investment opportunities.

In May, the S&Ls recouped a bit, but savings banks lost another $190 million. The figures are not in for June yet, but experts think that both S&Ls and savings banks lost deposits.

[From the Washington Post, July 9, 1974]

CEILINGS WORSEN FINANCING WOES

(By James L. Rowe Jr.)

The intricate financing problems of the housing industry during periods of tight money and high interest rates are complicated because the federal government sets ceilings on the maximum interest return banks, savings and loan associations and mutual savings banks may pay their depositors.

These ceilings were designed to prevent ruinous interest-rate wars among the various financial institutions, but also have the unintended effect of encouraging savers to withdraw their money to invest elsewhere when interest rates on other investments surpass the government interest ceiling.

For example, the maximum interest a savings and loan can pay a saver with less than $100,000 is 7.5 per cent. To get that return, the saver must agree to keep at least $1,000 on deposit for four years. The ceiling is 7.25 per cent for a commercial bank.

If the saver has $10,000 he can get in the neighborhood of 8 per cent by purchasing a Treasury bill and only have to tie up his funds for three or six months. Other government issues sell for as little as $1,000 but have much longer maturities.

Big savers not only can buy Treasury bills, but can invest in commercial paper which is essentially an IOU issued by companies with a need for cash. Banks, and recently, S&Ls, have been given authority to issue high-rate certificates of deposit for those with $100,000 or more to deposit.

So, as other interest rates rise above the ceilings imposed on banks and S&Ls, they scramble for ways to come up with money to satisfy potential borrowers. The financial regulatory agencies which set the ceilings often recognize the problems and make changes designed to help banks and S&Ls obtain funds. Other times, they write new rules or Congress makes new laws to close loopholes.

The result is a crazy-quilt of regulations with layers of different interest-rate ceilings for different types of deposits.

Consumer savers can get a little more for their money at S&Ls than at banks. The higher ceilings for S&Ls were designed to keep money available to finance housing, since S&Ls do the lion's share of home mortgage lending.

But consumer savers with more than $10,000 to invest can find a better return elsewhere than the bank or the S&L. When any savers—big or small—take their deposits out of those institutions, known as financial "intermediaries," and put their money directly into investments such as Treasury bills or corporate bonds, a process called "disintermediation" occurs.

In 1970, when bank deposits slipped sharply, the Federal Reserve Board removed the ceilings on the amount of interest banks could pay big savers who promised to leave $100,000 on deposit between 30 and 90 days. At the same time, the Treasury closed off an investment opportunity for small savers by raising from $1,000 to $10,000 the minimum purchase of a Treasury bill.

Last spring, to keep corporate money flowing into banks, the government suspended ceilings on deposits of $100,000 or more on deposits for over 90 days as well. Banks are not permitted to pay corporations interest on passbook-like accounts which can be withdrawn on a moment's notice.

On July 5, 1973, the federal government raised the remaining interest ceilings across the board and introduced for the first time a consumer-sized certificate of deposit which had no ceiling.

A certificate of deposit (CD) is a receipt which the bank or S&L gives an individual or corporation for a deposit. A CD specifies the interest rate and the length of time the money must remain on deposit with the bank.

Large-size CDs—$100,000 or more—are negotiable, which means that, if the corporation or big depositor needs the money before the end of the deposit period, he can sell the CD to someone else who can redeem it later. Smaller CDs, including the ceilingless four-year, $1,000 CD, cannot be resold.

But the consumer-sized CD upset the savings and loan industry which quickly dubbed it a "wild card."

"We can take a little disintermediation," said the U.S. League of Savings Associations director, Norman Strunk. "We can't compete with both the banks and the market."

Banks generally make loans of much shorter duration than the home mortgages S&Ls concentrate on. As a result, S&Ls argued before Congress, banks can offer consumers more money for the "wild card" deposits and would drain money from the politically sensitive housing sector.

S&Ls had large net outflows of funds last fall, although most analysts discount S&L contentions that the money flowed from S&Ls to bank. Whatever the case, Congress bought the S&L argument and ordered that ceilings be put on the wild card as of Nov. 1. These ceilings are 7.25 per cent at banks and 7.5 per cent at S&Ls. The big CDs are yielding an average of 11 to 12 per cent.

Congress has also stepped in to stop mutual saving banks from offering what are essentially interest-bearing checking accounts, called negotiable orders of withdrawal (NOW).

Congress restricted NOW accounts to the two states which hatched them—Massachusetts and New Hampshire—and permitted banks and savings and loan associations in those two states to get in on the act as well. Last month, several mutual savings banks in New York state announced that they were setting up the equivalent of checking accounts, although they would pay no interest on them. Commercial banks are fighting this development.

The latest move in the interminable scramble for more money to lend out comes from the company which owns the giant First National City Bank, New York's largest and the nation's second biggest. The development threatens to spawn the most serious source of "disintermediation" yet experienced.

Citicorp announced that it will offer $850 million of notes aimed at the small saver. Even though most of the money will find its way to Citibank as a loan from the parent company, the Federal Reserve Board said it is powerless to regulate the issue because it is a genuine securities offering, not a deposit.

Nonetheless, the Citicorp issue has many characteristics of a bank time deposit, even though it is a 15-year note which probably will be listed on the New York Stock Exchange.

The minimum purchase is $5,000—half as much as a Treasury bill—and the notes will carry a floating interest yield one percentage point higher than three-month Treasury bills. Interest will be paid every six months, at which time Citicorp will readjust the rate.

At those dates, however, the investor may cash his note in for face value if he gives Citicorp 30 days notice. This characteristic is most disturbing, according to Federal Reserve Board governor Andrew F. Brimmer.

This means the small investor can get his money back if interest rates fall below what banks or S&Ls pay on deposits, but he won't have to undergo the usual costs or face the market uncertainties he would have if he sold the note like a normal security on the stock exchange.

Leslie Silverstone, Washington regional vice president of Dean Witter, agreed that the offering has tremendous appeal. "It's a higher yield which gives the small guy the option of pulling out whenever he wants," he said.

The initial offering was $250 million and small-investor interest was so high that Citicorp upped the offering to $850 million, reportedly the largest single issue ever floated by an American company.

House Banking Committee chairman Wright Patman (D-Tex.) warns that the Citicorp offering will encourage similar offerings by other bank holding companies and Sen. William Proxmire (D-Wis.), who will probably head the Senate Banking Committee next session, has introduced a bill giving the financial regulatory authorities powers to limit the interest that bank holding companies can offer on their securities.

Even the Federal Reserve, which generally favors interest rate competition and which pressured the Federal Home Loan Bank Board into approving the now-defunct wild card, is upset. In the current high-interest situation, vice chairman George Mitchell said, the offering is "not in the public interest."

Thomas R. Bomar, chairman of the Federal Home Loan Bank Board, said the Citicorp issue and prospective issues by other bank holding companies "have threatening implications for thrift institutions." They cannot pay the same amount of interest as banks. The Citicorp issue will initially pay 9.7 per cent.

Already, the holding company which controls New York's third biggest bank, Chase Manhattan, has announced a similar $200 million offering. Industry experts think between $4 billion and $10 billion more of such offerings can be expected if the Citicorp issue is permitted to go through and is successful.

Even if Congress acts, one top federal official said, it will only close off another avenue around the interest rate ceilings, often called Regulation Q ceilings after the Treasury rule which permits them to be imposed.

"We'll add another complicated rule to a set that is already too complicated and anti-consumer," he lamented. "It'll be only a matter of time before someone like Wriston (Walter B. Wriston, chairman of Citicorp) thinks up another way around Reg. Q."

The administration, many bankers and those who regulate savings associations do not believe that ceilings on interest payouts serve a useful purpose any more. They were imposed on banks shortly after the Depression to prevent ruinous interest rate wars. They "served the purpose for a long time,

especially when market rates were below the ceilings and banks didn't need deposits," another official said.

"Today, they do nothing but hold down the amount of interest the little guy can get and exacerbate the disintermediation problem. They also channel more lending and borrowing into areas that are not regulated by the government, increasing the potential for disasters," he contended.

What the administration has proposed is a sizable overhaul of the financial system that it claims will permit savings and loan associations to earn more money and therefore be more competitive for deposits.

The proposed system is intended to make all financial intermediaries more competitive with the market, and smooth out the ups and downs in home building by encouraging a wide variety of lenders, not specialized institutions, to finance housing.

[From the Washington Post, July 10, 1974]

DEPOSIT LOSS PUTS HOUSING INTO TAILSPIN

(By James L. Rowe, Jr.)

The flight of deposits from those financial institutions which specialize in making home mortgage loans has tossed the home building industry into a tailspin.

It is the fourth time in the last eight years that rising interest rates have convinced large numbers of depositors to take their money out of savings and loan associations and commercial banks in search of better returns elsewhere.

A special presidential commission studied the problems of financial institutions during periods when the government is fighting rising prices by permitting interest rates to rise.

That commission concluded in 1971 that many of the problems were inherent in a financial system that chained institutions to specialized roles.

The administration put forth proposals last year, based largely on the commission report, that would permit S&Ls and mutual savings banks to make different types of loans allowing them to earn more money. To assure a flow of funds to housing, the proposals would seek to encourage more types of lenders—not just S&Ls and savings banks—to make home loans.

Thomas R. Bomar, chairman of the Federal Home Loan Bank Board, said that the bank board feels the administration's proposals would go a long way toward solving the basic problems of savings and loan associations.

Part of those problems are rooted in "good" years. During those years, savings and loan associations are like deposit magnets. Harris Friedman, chief economist of the bank board, said that, for some reason, S&Ls tend to pay the highest interest rates permitted by law, even when competing interest rates are much lower.

Investors who are now putting their money in Treasury bills (yielding 8 per cent this week) were putting their funds in S&Ls yielding 5 or 6 per cent when Treasury bills were yielding 4 per cent.

"Smart savers go to the highest rates," Friedman said. During 1971 and 1972, deposits at S&Ls grew by more than 25 per cent, from $146.4 billion at the end of 1970 to $206.7 billion at the end of 1972.

"Perhaps it would have been better if their deposits grew by 10 percent," Friedman suggested. If they had, S&Ls might not have driven mortgage rates down as much as they did, competing with one another to make mortgage loans. Those lower-yielding mortgages put them in more of bind when interest rates are rising.

Bank board chairman Thomas R. Bomar said that the average S&L portfolio is now yielding between 7 and 7.5 percent. A savings association is hard-pressed to compete with the 9.7 per cent interest that the parent company of First National City Bank of New York is offering small investors, or the 11 or 12 per cent interest that big banks are offering on large certificates of deposit.

Banks can increase their portfolios' earnings with relative speed because they make mostly short-term loans. S&Ls cannot because nearly 80 per cent of their assets are in long-term, residential mortgage loans.

The government has been pumping some money into S&Ls to replace lost deposits. But "money coming in to S&Ls above a certain rate has no value," Bomar noted, not only because ceilings on the amount of interest that can be charged on mortgage loans prevent S&Ls in many states from re-lending the money at a profit, but also because consumers balk at paying 9 or 10 per cent interest for a mortgage loan.

Last year, the administration proposed that the solutions to the problems of thrift institutions and home building lie in a substantial restructing of the financial system, one which decreases the role of the specialized lending institution.

The proposals, contained in the so-called Financial Institutions Act, seek to increase the earnings potential of thrift institutions by permitting them to make a much higher percentage of their loans in short-term consumer loans—such as car loans—and in higher-yielding, short-term commercial building and real estate loans. Under the proposals, S&Ls and mutual savings banks would be given more latitude in the kind and amount of securities investments they could make.

At the same time, the proposals would permit S&Ls and mutual savings banks to accept checking accounts, a source of funds from which they have been almost totally excluded under present law.

With increased earnings and more sources of deposits, these thrift institutions should be better equipped to compete with banks and other investment opportunities. So the President's proposals also phase out gradually all restrictions on the amount of interest banks, S&Ls, and savings banks may pay for deposits.

Implicit in the President's proposals is the conclusion that there is no longer a need for institutions which do almost nothing else but make home loans. To assure a constant but less volatile flow of money into housing finance, the President would provide a tax credit on home mortgages that would be available to all lenders with at least 10 per cent of their assets in mortgages.

The credit would permit a bank or S&L to deduct from its tax bill 3.5 per cent of the income from its mortgage loans if it has 70 per cent or more of its assets in mortgages. For each percentage point below that, the lender loses one-third of one percentage point of the credit.

With 10 per cent of its assets in home mortgages, the lender could deduct 1.5 per cent of its income. Below that, there would be no tax credit.

If a savings and loan had $1 million in mortgage interest income and 70 per cent of its assets in home mortgages, it could deduct 3.5 per cent of $1 million, or $35,000, from its tax bill.

The President said his proposals would increase the ability of financial institutions to compete with each other and the market, a situation which better serves the "public interest." The Federal Home Loan Bank Board agrees with him. "For the savings and loan association to do the home financing job, it needs access to new kinds of money," asserts FHLBB chairman Bomar.

Norman Strunk, executive director of the U.S. League of Savings Associations, the major S&L trade group, disagrees. The problems of S&Ls and home building are not rooted in the financial structure, he argues, but in poor economic policy.

"The problems are basically the result of inflation," he charged. He said everything went well until the inflation of 1966.

"Make no mistake about it. At the heart of the administration's proposals is nothing less than the elimination of the savings and loan system as we know it," the U.S. League itself charges in a position paper.

Savings associations would like the authority to make more varied consumer and commercial loans as well as the ability to offer checking accounts. "We need those to stay even with constantly aggressive commercial banks," Strunk alleges.

But they don't want to see the ceilings removed on the amount of interest banks or S&Ls can pay on deposits. They also want to see those ceilings kept higher for S&Ls than for banks and would like to see the differentials widened.

"We can live with disintermediation," Strunk said, referring to the situation in which deposits flow from institutions to other investment opportunities such as Treasury bills. "We can't live with both disintermediation and loss of deposits to banks."

When he proposed the legislation last summer, the President said that interest ceilings deny the small saver a "fair market return on his savings."

William F. Ford, chief economist for the American Bankers Association, says he has some reservations about the proposals, but argues that they go in the right direction.

Keeping ceilings on deposit rates is "anti-consumer," Ford said. Not only do ceilings fail to keep funds flowing to the housing market during periods of rising interest rates, but they also are set with the assumption that "the interests of consumers as mortgage buyers should be put ahead of the interests of consumers as depositors." Theoretically, S&Ls can charge less for mortgage loans if they have to pay less for their deposits.

But a paper of the bankers association contains the argument that, at any given time, the maximum number of "actual and potential mortgage applicants will not exceed 8 million," while there are 160 million passbook savings accounts at banks and S&Ls representing at least 80 million individuals.

A top congressional aide concedes that the present ceilings on interest rates are inequitable. But the debate on who does and who does not benefit "from interest on savings ends up being largely an argument among the more affluent in our society," he said. Even among the better off, "most families are net borrowers, and it takes a great deal of interest on savings to offset the increased cost of borrowings on mortgages, education and other typical needs," the aide said.

Unless interest ceilings are eliminated, however, another observer argues, the dislocations of financial institutions during periods of high interest rates will continue. "It does no good to save him money on mortgage he cannot get," another congressional aide observed.

But it is assuring that flow of funds into the housing market that gives even proponents of the administration's plans some pause.

"Removing the interest ceilings and expanding lending and deposit powers will keep money going into financial institutions, all right," one banking authority said. But even with the tax credit, the administration's proposals could adversely affect the amount of money those institutions direct to home mortgages. The administration's proposals, broad as they may be, do not deal with the fundamental defect of the mortgage: its fixed return during periods of rising interest rates.

[From the Washington Post, July 11, 1974]

UNITED STATES BACKS REFORMS FOR AIDING S&Ls

(By James L. Rowe, Jr.)

Reforms designed to enable savings and loan associations to better compete with banks during periods of rising interest rates are supported by the administration and the Federal Home Loan Bank Board which regulates S&Ls.

While those reforms deal with many of the defects of the financial system which choke off the flow of funds to institutions which make mortgage loans, the reforms do not deal with the fundamental defect in the home mortgage: its long-term, fixed rate of return.

The reforms proposed last year by the administration in the Financial Institutions Act would allow S&Ls, which now make mostly mortgage loans, to make short-term consumer loans, and some commercial and real estate loans. With broader lending power, the administration reasoned, S&Ls would not be so locked in to long-term, fixed-rate mortgages that they are seriously hindered in boosting their earnings when short-term interest rates rise rapidly.

With better earnings, thrift institutions such as S&Ls should be better equipped to pay competitive rates on deposits, so protective ceilings on rates that banks and S&Ls may pay savers would be eliminated under the Presidents' proposal.

Because restructured S&Ls would lend to car buyers some of the funds they now lend to home buyers, for example, the administration proposed a mortgage tax credit to encourage a variety of lenders to make home loans. Using the tax credit rather than specialized lending institutions to channel money into mortgages should even out the flow of funds to home building, the administration contends.

The housing industry now suffers severe ups and downs depending on whether thrift institutions are flush with deposits and making lots of mortgage loans or, as is the case today, running out of deposits and making almost no mortgage loans.

Many critics argue that the proposed tax credit will not channel enough new funds in to replace the money lost. Even under the new reforms, most S&Ls still would be making more than half their loans as home mortgages, but substantially less than the 80 per cent or so they do today. Other institutions, mainly banks, will have to take up some of the slack.

Until mortgages are structured so they do not lock the lender into a fixed rate of return during periods of rising interest rates, they will remain unattractive investments to lenders with a choice.

Thomas R. Bomar, chairman of the Federal Home Loan Bank Board and a strong supporter of the Financial Institutions Act, says that, in addition to the President's proposed reforms, long-term mortgages must be made responsive to short-term interest rate fluctuations.

Most industry specialists agree with Bomar that the answer is the variable rate mortgage. With this type of loan, the borrower agrees to pay a higher rate during those periods of the loan when other interest rates are rising and a lower rate when other interest charges are declining.

For years, commercial banks have made many loans—generally to businesses—with floating interest rates.

Maurice Mann, president of the Federal Home Loan Bank of San Francisco, calls the variable-rate mortgage a "vitally needed" reform.

The idea is not new. It has been tried in Great Britain and Israel with limited success at best and a few times in the United States with marked failure. Last year, when many Wisconsin S&Ls invoked a little-noticed variable-rate clause in their loan agreements, some mortgage rates jumped by 1 or 2 per cent overnight. The Wisconsin legislature, amid much clamor, overruled the boosts.

The variable rate transfers some of the risks of up and down movement in interest rates from the lender to the borrower. "To get me to take a variable rate, I'd want a better deal, too," chairman Bomar said. "If I'm going to share some of the risks, I'd want a lower rate to start."

Adequate safeguards, to forestall experiences like those in Wisconsin, are needed before the variable-rate mortgage can be used widely.

The rate charged on the mortgage must be linked to an index that "can be proven to go up and down parallel to other money market interest rates," Bomar asserts.

Tying it to the consumer price index, which seldom does anything but rise, would be unwise and unfair. The index also must be one that can be controlled neither by the lender nor the borrower, Bomar argues.

Kenneth Plant, research director of the Federal Home Loan Mortgage Corp., thinks his staff has come up with the proper formula. Plant s index relates the interest a home buyer would pay to the average of the interest returned on three- to five-year government bonds and seasoned corporate bonds.

Bomar insists that other safeguards are necessary, too, including limits on both the amount by which the interest charge could move up or down at any one time, as well as an overall limit on how high or low it could go over the life of the loan. Adequate notice of a change also would be necessary.

The bank board is hard at work devising rules to make variable-rate mortgages workable, yet fair to both lenders and borrowers. The board also has to work out technical factors such as whether the size of the monthly payment should change when the interest rate changes or whether the size should remain constant and the number of payments change.

It is basically the lack of safeguards that has hindered the use of variable-rate mortgages. Few state laws would prohibit them.

The 20 or so state laws which place limits on the amount of interest consumers may be charged on loans would complicate the use of variable-rate mortgages. These ceilings would place an arbitrary upper limit on how high the rate could go.

Usury laws were originally enacted to protect the consumer from powerful institutions which could gouge him. But in periods of rising interest rates, such laws often hurt the consumer by preventing him from bidding for loan money that then goes to business.

During the recent credit pinch, many states, including Maryland, have boosted their usury ceiling. The District is considering such a move.

In some situations, such as those in which a savings and loan association already has agreed to finance all of the homes in a development, the higher usury ceiling simply means the consumer must pay more for a loan he would have received anyway.

But in other situations, the higher interest ceilings may permit a home buyer who is willing to pay more for a loan to find one that a savings and loan association would have been reluctant to make at a lower rate.

The State of Pennsylvania, in an attempt to balance the protection of usury laws and the reality of higher interest rates, in February established a "floating" usury ceiling on mortgages under $50,000. That ceiling goes up and down with long-term government bonds.

Initially, it was 8.75 per cent but it has floated up to 9.5 per cent for June and July.

Although ideas abound on long-run changes in thrift institutions and their relationship to the finance of home building, serious reforms are a long way off.

Government and quasi-government agencies are using various techniques to keep money flowing to S&Ls to replace some of the deposits lost to other investment opportunities.

But those funds are high-cost and often of limited use to the S&Ls either because of usury ceilings or because consumers balk at paying 9.5 or 10 per cent for a loan.

Unless the Fed Reserve changes its tight money policy or short-term interest rates suddenly go down, the amount of money available for home mortgage lending will continue to contract. Neither course of events seems likely soon.

The slump in home building will continue for some time. If history is a good predictor, the current sage of high interest rates will play itself out again and again in the future.

THIRTEENTH ANNUAL NCOA INTERNATIONAL CONVENTION

Mr. TOWER. Mr. President, the Non-Commissioned Officers Association recently met in San Antonio, Tex., for their 13th annual NCOA international convention. At that convention the association honored me and I would like to take this opportunity to once again express my appreciation to them. As the only enlisted reservist in the Senate, I can take special pride in the activities of the NCOA. At the convention, the association passed a number of important resolutions that I think express the feelings of the membership not only on issues of national defense but also on the human condition. I am proud to present these resolutions to the Senate and would urge my colleagues to consider them with care. I ask unanimous consent that the resolutions be printed in the RECORD.

There being no objections, the resolutions were ordered to be printed in the RECORD, as follows:

1974 RESOLUTIONS

The following resolutions were voted on and approved by the general membership:

Be it resolved: That the worldwide Non Commissioned Officers Association establish programs through its Chapters and members to provide support and assistance to retarded people of all ages.

Be it resolved: That the Non Commissioned Officers Association establish a special program which will provide all veterans and members of the military upon leaving active duty assistance in employment and second career opportunity.

Be it resolved: That the Non Commissioned Officers Association, through all available programs, provide assistance in the recruitment of highly qualified young men and women into the military service and to provide support to the retention programs of all branches of the military service, to include Reserve components and National Guard.

Be it resolved: That the Annual Meeting of the members of the NCO Association be held at such location as designated by the Board of Directors. The time, date, and location will be published in the NCOA JOURNAL not less than 60 days in advance of such Annual Meeting.

Be it resolved: That the Missing In Action (MIA) never be forgotten as long as their status remains "missing in action" and that their families be given moral support during these trying times and be it further resolved that our Government be continually appraised of our position on this matter.

Be it resolved: That the members of the Non Commissioned Officers Association authorize and direct that the International Board of Directors appoint one or more persons as their representative or representatives upon the Board of Directors of AMMEST

Group, Inc. and its subsidiaries and for other corporation in which the Association owns a substantial stock interest, so that the Association may be kept better informed as to the operations of our consultant firms and to represent our ownership herein.

Be it resolved: That we, the members of the Non Commissioned Officers Association, signify a sincere vote of appreciation by publicly recognizing the NCOA Resident Counsellors worldwide for the many benevolent, fraternal, and humanitarian actions that they have undertaken of their own free will.

Be it resolved: That at one hour before sunset on April 20, 1974, our Legislative Committee Representative, with appropriate ceremony, secure our coveted American Flag; that he transport it by the most expeditious means possible, and have it raised over our nation's capitol building as a one-day symbol of the NCOA's rededication to our government and American people, of the NCOA's patriotism, benevolence, integrity, and our love of our country. Be it further resolved that our flag be returned with haste, dignity and honor; and that it again be raised above our headquarters with pomp and ceremony so that it may serve to constantly remind us all of our rededication to our beloved country.

Be it resolved: That Associate members in the Non Commissioned Officers Association be restricted from the vote and not be allowed to hold office at any level. The "grandfather law" applies. Be it further resolved that organization and operation of Associate Member Chapters be referred for staff study.

Be it resolved: That members of the Non Commissioned Officers Association publicly recognize the services of the ladies auxiliaries throughout the world who support the ideals and goals of our great Association by their invaluable assistance to all our members.

Be it resolved: That the members of the Non Commissioned Officers Association in attendance at the 13th Annual Convention show their appreciation to the President and members of the International Board of Directors for an outstanding year in the history of our Association by a roaring round of applause and a standing ovation.

"It is with the conception and full understanding that many things of great need and importance can be accomplished in unity and cooperation, but otherwise impossible, that the Members of the Non Commissioned Officers Association of the United States of America have agreed to join their efforts and strength to work together for the well-being of the individual, the group, and for the greatest benefit of our beloved Nation."

PREAMBLE

The past year is now history. Among the major events in national and international affairs that highlighted 1973 and affected the Association's membership or the national security were the following:

(1)—Dramatic reductions in the strength and effectiveness of the United States active forces of the armed services.

(2)—The Middle East War (involving Israel and the Arab nations of Egypt and Syria).

(3)—A confrontation of the alliance between the United States and its European NATO allies.

(4)—The Soviet Union's continued strengthening of its armed forces; the effective testing of its Multiple Independently Targeted Reentry Vehicle (MIRV) Missiles; its reluctance to abide by or continue with further detente and arms control agreements with the United States; and its growing influence on Arab nations exporting oil to the United States and European NATO countries.

(5)—The energy crisis in the United States.

(6)—The increased pressure on Congress to reduce the appropriation for the Department of Defense and the U.S. armed forces; to dilute, curtail, reduce, and/or delete certain pay, allowances, and benefits that are now available to the military community.

(7)—The latest effort by certain factions to reduce the size of the U.S. Reserve and National Guard forces.

(8)—Congressional efforts to continue substituting civilians for military personnel billets on the false assumption that civilians are less costly to the federal government.

(9)—The effort by the Department of Defense to revamp the retirement annuities for military personnel and without an equal recommendation for its civilian employes.

(10)—The hearings in Congress on the amnesty issue.

(11)—The showing of dissatisfaction with the Administration's treatment of Vietnam veterans in particular, and of earlier veterans, their families, and survivors.

(12)—The second defeat of the Recomputation of Military Retired Pay Amendment by the Senate and House Armed Services Committees' conferees.

(13)—Congress' continued refusal to repeal, revoke, or change the existing military laws that are discriminate against regular enlisted members of the armed forces.

(14)—And the continued efforts by certain elements of the federal government to (a) give away the Panama Canal, (b) curtail or phase out the activities of the House Internal Security Committee, (c) strike down the oath of allegiance to the United States when applying for a passport, and (d) insure that the All-Volunteer Force will work even if the size of the armed services is reduced according to the number of accessions of volunteers recruited.

Of the events related above, the Association should primarily concern itself with matters that will affect the United States in its internal and foreign affairs. Secondly, its efforts should be turned toward those issues that greatly affect the majority of its members, and, last but not least, actively promote its efforts to assist in the needs of minor collective groups within its membership.

This is the NCOA Creed, and in this respect the membership is obligated by its contents to determine and analyze the issues, propose mandates that will correct or stabilize the problem areas, and subsequently direct that the Association use its combined efforts to have the mandates brought to the attention of the proper officials of the federal government, and to actively pursue legislative measures that will influence their stabilization, correction, and enactment.

Accordingly, the following resolutions are offered for adoption.

LEGISLATIVE RESOLUTION NO. 1

National defense posture

The President's budget for the Department of Defense for Fiscal Year 1975 totals nearly $85.8 billion. By functional component, the appropriations bill contains the following requests:

1. For active duty military personnel with an end strength of 2,152,123, $22,090,700,000.

2. For National Guard and Reserve Personnel with an end strength of 892,066, $1,732-200,000.

3. For Retired Pay, Defense, $5,687,600,000.

4. For Operations and Maintenance, $26,-043,943,000.

5. For Procurement, $19,866,617,000.

6. For Research, Development, Test and Evaluation, $9,322,469,000.

7. For Currency (Foreign) Program, $2,900,000.

8. For Petroleum Reserve, $6,900,000.

The budget, although the largest in the history of the nation, is the lowest in terms of percentage expenditures for the national budget since World War II. Where it once consumed nearly 80 percent of the total annual outlay in 1945, the FY 1975 DOD Budget is but 30 percent.

The defense budget, regardless of size, is necessary to insure peace for the United States in an era of so-called detente—one that finds the Soviet Union continuing to build and reinforce its armies, improving its missile capabilities and deliveries, exerting its political and military influence particularly in the Middle East, and concentrating its efforts to build the greatest naval armada in the world today.

There is at present no free nation other than the United States that has the potential to offer a deterrent to the Soviet's dream of world conquest. America must remain strong and heavily armed or it may perish, or become dominated by communism.

The United States is on the brink of losing its major role as a world power for peace. It may have the largest nuclear stockpile, and undisputedly the greatest air armada, but its land and naval forces are definitely inferior in size and power to that of the Soviet's.

Recent history has proved beyond a doubt that nuclear power has prevented nuclear war; that air power cannot seize and control the land and seas; that land and naval forces are vital to the offensive and defensive capabilities of any nation.

Therefore, let it be resolved that the Non Commissioned Officers Association supports the Administration's Fiscal Year 1975 Defense Budget and encourages all members of Congress to do likewise. For those who may oppose a strong defense posture, the NCOA urges that they consider the youth of our nation and ask themselves a question that should be haunting those U.S. lawmakers following World War I, World War II, and the Korean War; "is the blood of our Nation's youth cheaper than money?"

Let it further be resolved that the United States should pursue a defense posture second to none. That until the Soviet Union, by deeds and not mere words, either stabilizes or decreases its armed strength, the United States will:

(1). Maintain an active duty armed force of not less than 2.3 million military members;

(2). Maintain a national guard and reserve force of not less than one million military members;

(3). Develop and procure sufficient nuclear and conventional weapons that are superior to those of any other nation or coalition of nations;

(4). Rebuild the Army and Navy so that its strength and military posture is at least equal to that of the Soviet Union;

(5). Authorize the U.S. Navy to expand facilities at Diego Garcia in the Indian Ocean in order to protect the interests of the United States, and to prevent the Soviet Union from seizing control of that vital area through its ever-increasing naval power; and

(6). Insure that the United States maintains sovereignty over the Panama Canal, a most vital link in the nation's defense.

LEGISLATIVE RESOLUTION NO. 2

Equity for enlisted military personnel

Congress, and rightfully so, has over the years enacted legislation that offers protection in many ways to many members of the military community; on active duty, retired, in the reserve or national guard, and their dependents and survivors.

The majority of the measures, contained in either title 10 or title 37, United States Code, may readily be described as "laws normally protecting the well-being of the military member."

Yet, in most military laws enacted by the federal government, the regular enlisted member of the U.S. armed forces is not the beneficiary of, nor is included in those protective measures that pertain to regular commissioned and warrant officers, or reserve and temporary commissioned and warrant officers, or even certain enlisted personnel of other than the regular components.

Specifically stated, under present federal

law, in particular title 10, U.S. Code, regular enlisted members of the U.S. armed forces are not protected from their initial enlistment to the date of their retirement—a situation that does not exist for regular commissioned and warrant officers.

Therefore, let it be resolved that the Congress of the United States be petitioned to enact corrective legislation that will:

(1). Provide severance pay or readjustment pay for regular enlisted members of the U.S. armed forces;

(2). Allow certain enlisted members of the U.S. armed forces to credit their reserve time when computing their retired pay, the same that is now provided for certain commissioned officers;

(3). Change incentive pay and hazardous duty pay for enlisted members of the U.S. armed forces that will offer a more equitable system based on assignments of duty and responsibility and comparable to the pay rates now in effect for commissioned and warrant officers, and provide under law that enlisted aircrew members must receive notice of terminal flight pay at least 120 days in advance of the date final flight pay is due for performing such duty;

(4). Entitle enlisted members to legal counsel in the event they are to be involuntarily discharged for administrative purposes, or denied reenlistment for cause when the character of service has been honorable, and that a review board be established for the latter group to appeal such denials if the enlisted member so requests an appearance before such a board;

(5). Provide that any enlisted member of the U.S. armed forces on active duty having a minimum of 18 years of honorable service cannot be denied reenlistment or continued active duty until he or she has sufficient active service for retirement purposes;

(6). Provide that an enlisted member of the U.S. armed forces on active duty, who maintains an acceptable standard of honorable service, and is in pay grades E–9, E–8, or E–7, shall have a comparable protection of tenure of service as is now provided for commissioned officers in pay grades O–7, O–6, and O–5;

(7). Provide that noncommissioned and petty officers having violated certain punitive articles of the Uniform Code of Military Justice (UCMJ) may accept an administrative discharge rather than stand trial by court-martial, the same as a commissioned officer is allowed to resign his or her commission;

(8). Provide that an enlisted member retired or released from active duty without pay for physical disability may request reviews of his or her case up to 15 years from the date of retirement or separation;

(9). Provide that enlisted members not permitted to complete a period of enlistment, may if the service has been honorable and the separation not voluntary, receive payment for the unexpired period of the enlistment if they are not entitled to severance or readjustment pay; and

(10). Provide equal per diem entitlements to enlisted members as now authorized for commissioned officers.

LEGISLATIVE RESOLUTION NO. 3

Retired military members

In 1958 and 1963, Congress passed legislation that provided for termination of recomputation of retired military pay and substituted cost-of-living raises based on the Consumer Price Index (CPI). Subsequently the new law created an inequitable annuity system, in particular for those retirees of the pre-1968 period.

Although the law, as changed, has been upheld by the civil courts, there still remains a moral and ethical obligation on the part of the federal government to support its promises of recomputation to certain career military members on active duty prior to 1958.

In addition further attacks are being launched today by many members of Congress, and the Administration, on military retirees and future retirees, their dependents and survivors. Future retired pay reducing present annuities is to be considered under proposed legislation introduced in the 93rd Congress. Other legislation is being introduced, or has been proposed, that will either curtail, reduce or revise certain benefits that are now available to military retirees or future military retirees.

Furthermore, there are a few laws presently in the U.S. Code that are discriminate to the military retiree and should be repealed or revised at the earliest.

Therefore, let it be resolved that the Non Commissioned Officers Association petition the Congress of the United States to enact the following measures calling for:

(1). Enactment of legislation that provides for recomputation of retired military pay as provided in H.R. 14081, and companion bills, H.R. 14082 and H.R. 14083, 93rd Congress, introduced by the Honorable Bob Wilson, M.C. from California, and others;

(2). Revision of legislation that will change the method of recomputing retired pay to reflect later active duty;

(3). Rejection of legislation that will provide for a new Military Nondisability Retirement System, as contained in H.R. 12505, 93rd Congress, if the provisions do not exclude those members on active duty on the date of enactment of the measure, and further excludes the payment of severance or readjustment pay to members voluntarily separating from the armed forces;

(4). Enactment of legislation that will grant to retired members of the armed forces who are federal employes full retention preference credit in reductions in force;

(5). Enactment of legislation that will provide that certain additional amounts received by retired servicemen employed in the Jr. ROTC shall be treated as allowances or communications of quarters;

(6). Enactment of legislation that will extend from one to three years the period that a member of the armed forces has following his or her retirement to select a home for purposes of travel and transportation allowances;

(7). Rejection of legislation, as contained in H.R. 10368, 93rd Congress, that provides for the continuation of reductions in pay for military retirees if the spouse predeceases the sponsor (Public Law 92–425);

(8). Enactment of legislation that will amend the Survivors' Benefit Plan, Public Law 92–425, that will provide for an election of an annuity for a dependent child if one is not elected for a spouse, and terminates the provision calling for integration of social security annuities at age 62 for spouses in receipt of SBP annuities;

(9). Rejection of legislation that provides for the attachment of military retired pay for purposes of paying alimony;

(10). Enactment of legislation that will provide for the payment of federal employment compensation concurrently with the receipt of retired military pay for certain federal employes injured on the job;

(11). Enactment of legislation that will provide for military retirees a choice of selection to participate in Champus or Medicare upon attaining the age of 65;

(12). Enactment of legislation that will provide for the attraction and retention of sufficient medical professionals to adequately provide medical services and treatment for military retirees, their dependents and survivors in existing military medical facilities of the armed forces; and the

(13). Enactment of legislation that will amend existing law to provide that military retirees will not be denied their full retired pay if they are employed by the federal government.

LEGISLATIVE RESOLUTION NO. 4

Regular military

The regular active duty military member is presently being equated by the Administration and certain members of Congress as allegedly receiving comparable pay with his or her civilian counterpart.

Subsequently legislation has been introduced in the 93rd Congress, and has been recommended by the Administration, and certain Department of Defense regulations have been changed. These changes will curtail or have curtailed, will delete or have deleted, or will reduce or have reduced certain pay, allowances and benefits now authorized or were authorized previously for military personnel, their dependents and survivors.

However, a review of the pay and allowances (and benefits) provided to federal and railroad employes vividly points to the undisputable fact that the military receives a lesser amount in comparison.

For example, of all military members on active duty, 67 percent are in paygrades E–5 and below drawing an annual salary of pay and allowances amounting to less than $7,000. On the other hand, a comparison of Defense General Schedule Civilian Employes indicates that 66.88 percent are in grades GS–9 and below averaging an annual salary of less than $9,000.

Since it is apparent that most military members do not receive a comparable salary with the majority of civil service employes or railroad workers, whose salaries and benefits are subsidized by the federal government, requests to improve legislation and certain regulations in behalf of the military member are not out of order.

Therefore, let it be resolved that the members of Congress of the United States be petitioned by the NCO Association to:

(a). Support and enact the following legislative proposals that will:

(1). Require that the armed forces continue to provide special education services for certain eligible military dependents who have learning disabilities;

(2). Provide additional dental care for dependents of active duty members;

(3). Convey certain real properties for use to surviving spouses and dependents homes;

(4). Provide continued use of military medical facilities for the care and treatment of dependents and survivors of military members;

(5). Provide adequate bonuses to attract and retain sufficient medical and dental officers for the armed forces to adequately care for and treat the medical and dental needs of the military community at existing military medical facilities;

(6). Provide continued or additional tax relief for members of the armed forces, who were POWs or MIAs during the Vietnam conflict, who are in a combat zone or hospitalized as a result of wounds or injury incurred during service in a combat zone, who die while serving in a combat zone from wounds or disease or injury incurred therein, who sell or exchange residences, who die as a result of serving in a combat zone and leave an estate, who moves as a result of military orders, or who receives tuition and educational expenses as a result of a scholarship at an educational institution or as a fellowship grant

(7). Provides continued federal financial assistance, as authorized by Public Law 81–815, to local school districts providing free public education for children living on, or whose parents are employed on federal property, or in the uniformed services;

(8). Provide for adequate housing and maintenance of existing housing on military installations;

(9). Provide for special housing or cost-of-living allowances for military members as-

signed to high-cost areas in the continental U.S.:

(10). Amend certain Status of Forces agreements that will provide better protection and economic indiscrimination for military personnel serving in foreign countries; and

(b). To reject legislation that will;

(1). Change the present military pay system that would authorize that future pay raises may and can be distributed between basic pay and certain allowances;

(2). Curtail or provide certain limitations on the present space available system (except that which might regulate certain discriminate practices afforded to senior commissioned officers and not to other members of the armed forces); and

(3). Curtail, cut-off or gradually erode the present exchange and commissary privileges and facilities now available to military members.

LEGISLATIVE RESOLUTION NO. 5

Passports

A United States District Court in 1972 ruled that there was no statute authorizing the Secretary of State to require the oath of allegiance when applying for a passport.

A passport is now required in order to travel abroad and to return to the United States, except for travel to and from North, Central and South America (excluding Cuba).

Americans traveling abroad expect the protection of the United States and should be willing to abide by the constitutional process of the U.S. government by acknowledging the simple oath of allegiance.

In January 1974, the Non Commissioned Officers Association of the USA urged the President of the United States, the Secretary of State and the Attorney General of the United States to appeal the court's decision. The NCOA sent the following message:

"Our members have affirmed their support of the Constitution and feel that every U.S. citizen should stand tall in bearing true faith and allegiance to this Nation. Those that refuse should not be entitled to the protection of our government."

Subsequently the NCOA was advised that the federal government would petition Congress to introduce and enact legislation that would require all U.S. citizens to sign the oath prior to being issued a passport.

Therefore, let it be resolved that the Non Commissioned Officers Association shall continue to petition members of the Congress of the United States to enact legislation that will require all U.S. citizens to attest to the oath of allegiance when applying for a passport to travel abroad.

LEGISLATIVE RESOLUTION NO. 6

House Internal Security Committee

A recent proposal introduced in the House of Representatives recommends passage of legislation that will transfer the House Committee on Internal Security to another standing committee. The result of such a move, if enacted, will result in the committee's eventual demise as the bill does not require that the committee's staff and files will also be transferred.

The executive branch of the federal government has, as a matter of political and minority group pressure, reduced its surveillance of un-American activities. What information is obtained is normally unavailable to congressional legislators or to the American public. It is inherent upon all patriotic citizens of the United States to maintain a constant vigil of subversive elements. There is no organization other than the House Committee on Internal Security that can and will do the job openly without malice, and in the interest of national security.

Despite efforts for detent, the Soviet Union, by its mere existence, is dedicated to the principle of world conquest. Some years ago the then Russian premier "promised to bury the United States within." There is no reason today to believe that they will do otherwise.

The hidden enemy exists today more than at anytime in the history of the nation. They are around us, within us, and worst of all, a part of us. As freedom loving people believing in a democratic form of government, the United States cannot tolerate the existence of subversive groups lending themselves to the internal destruction of this nation.

Our country is in danger. The peril bears maximum vigilance at any cost.

Therefore, let it be resolved that the members of the Congress of the United States be petitioned by the Non Commissioned Officers Association of the USA (NCOA) to reject any legislative efforts that will provide for the restructure or abolishment of the House Committee on Internal Security.

LEGISLATIVE RESOLUTION NO. 7

Amnesty

The amnesty issue has once again reared its head in the nation's capital. A recent hearing before a Subcommittee of the House Committee on Judiciary considered legislative proposals for and against the granting of amnesty or earned immunity to draft evaders and deserters from the U.S. armed forces.

The NCO Association appeared before this Subcommittee opposed to amnesty, as mandated by the members of the Association assembled in convention at San Antonio, Tex. during April 1973.

Therefore, let it be resolved that the NCO Association shall continue to be opposed to the granting of amnesety or "earned immunity" to male citizens who willfully avoided the draft by refusing to be inducted into the armed forces, or who willingly deserted the armed forces, during the Vietnam conflict.

LEGISLATIVE RESOLUTION NO. 8

The National Guard and Reserve

The present strength of the regular armed forces of the United States is at an alarming low level. With a projected force of only 2.1 million members, the regular components are numerically inferior to that of the Soviet Union with over 3 million. Should the United States be required by necessity to face the massive forces of the Soviet Union in a conventional war, the regular Army, Marine Corps and Navy elements in particular would be hard-pressed to supply more than a basic deterrent in a total U.S. defensive effort.

Therefore, it is imperative to the national defense that the United States maintain a Reserve and National Guard force of at least one million members. Such a strength is necessary to provide the vast and varied military skills required by the regular forces in the event of major hostilities. The recent Middle East War should be a lesson to the United States that its reserve forces are vitally needed, but most of all, maintained at the ready at all times.

Therefore, let it be resolved that the Non Commissioned Officers Association will continue to support a Reserve and National Guard force of at least one million strong, and that the United States should maintain that level even if it needs to enact legislation that provides for universal military training of all qualified U.S. male citizens over the age of 18. However, in light of the all-volunteer force concept, the NCO Association recommends that the Congress of the United States should first enact legislation that would provide incentives to attract and retain volunteers for these components of the Nation's armed forces. Such legislation should contain provisions that will provide:

(1). Full-time SGLI coverage for all reserves and national guardsmen;

(2). Enlistment and reenlistment bonuses;

(3). Earlier retirement age at reduced annuities;

(4). Comparable educational benefits for those reservists and guardsmen completing an honorable commitment.

LEGISLATIVE RESOLUTION NO. 9

Veterans' Affairs

The status of veterans' affairs, despite the continued efforts of Congress, has diminished because of the inflationary spiral consuming the country today. Of particular concern are the Vietnam veterans who face greater difficulties than their predecessors of World War II and the Korean War, and the veterans of World War I who are drawing minimal pensions that provide little if any relief to their poverty statuses.

The plight of veterans is the concern of the Non Commissioned Officers Association. Although primarily a quasi-military organization devoted to the well-being of the enlisted military members, it cannot stand idly by while the veterans, most who served as enlisted men and noncommissioned and petty officers in the U.S. armed forces, are denied certain benefits, or are faced with continued cost-of-living increases that threatens the effectiveness and value of the benefits to which they are entitled.

Therefore, let it be resolved that the Non Commissioned Officers Association of the USA (NCOA) will petition the members of the Congress of the United States to enact legislation that will provide for the well-being of the American veteran, his dependents and survivors. Primary concern should be given to the early passage of legislation that will provide for:

(1). Adequate monetary increases for veterans enrolled under the GI Bill, and the extension of time limits for participation therein;

(2). Automatic cost-of-living increases for veterans' compensation rates, widows' compensation rates, and DIC rates, the termination of the disparity in DIC ratings based on grades-in-service, and equalization of the rates of compensation for widows and surviving children of veterans, military members, federal employes and railroad workers;

(3). Increases in pensions for certain World War I veterans;

(4). Additional compensation and benefits for service-connected, totally disabled veterans, their dependents and survivors;

(5). The payment of compensation for certain service-connected disabled veterans who are retired members of the uniformed services concurrently with retired pay without deduction from either;

(6). Increases in social security benefits will not cause a reduction in veterans' pension and compensation payment;

(7). Increased rights of veterans for preference treatment when reductions in force are mandated for federal and state employes;

(8). The removal of existing limitations on the amount of educational assistance which may be received by certain persons entitled to both war orphans' and veterans' educational assistance; and

(9). The change of Memorial Day and Veterans Day back to May 30 and November 11 respectively.

LEGISLATIVE RESOLUTION NO. 10

The U.S. Soldiers and Airmens Home and the U.S. Naval Home are facilities available to retired and discharged military persons who are old, disabled, infirmed, or have other major difficulties, providing that they meet certain entrance requirements.

However, because of certain restrictions, entrance to the homes may be denied to military members having mixed service in other branches of the armed forces.

For example, a retired Army member having served earlier in the naval service, is not eligible for admission to either home.

Therefore, let it be resolved that the Non

Commissioned Officers Association shall petition the U.S. Soldiers and Airmens Home and the U.S. Naval Home to change the entrance criteria to include members having mixed service in certain other branches of the armed forces.

LEGISLATIVE RESOLUTION NO. 11

Whereas the assembled membership of the Non Commissioned Officers Association of the USA (NCOA) cannot foresee the activities of the Congress of the United States, and

Whereas the members of the NCOA are vitally concerned with legislation affecting any or all of its membership, let it therefore be

Resolved that the membership of the NCOA assembled in International Convention this 19th day of April, 1974 in San Antonio, Tex., authorizes the International Headquarters Legislative Committee to recommend the initiation of any action to the International Board of Directors necessary to support or oppose legislation that affects any or all of the membership of this Association. The International Board of Directors will in turn instruct the National Capital Office, Washington, D.C., to carry out the necessary actions as recommended by the Committee.

THE DEATH OF FORMER SENATOR ERNEST GRUENING

Mr. McGEE. Mr. President, the Nation suffered a great loss recently with the death of a former colleague and friend, Senator Ernest Gruening.

Ernest Gruening was a remarkable man and each of us fortunate enough to know and work with him was enriched by that association. As a member of the U.S. Senate, he was a forceful and effective leader of many causes associated with civil rights, domestic social issues affecting the critical needs of our citizenry, and women's rights.

As a colleague, we gained a deep appreciation and admiration for his judgment, spirit, experience, and strength. His knowledge on a vast range of issues was unmatched in quality and depth.

Ernest Gruening brought to the Senate a remarkable record of public service. He earned an M.D., became a newspaper reporter, an editor of many leading newspapers, a foreign correspondent, author, historian, publicist, diplomat, and finally, the territorial Governor of Alaska. In each of these pursuits, he exhibited a pioneering spirit which few could match.

Few would disagree that had it not been for Ernest Gruening's perseverance and indefatigable efforts, Alaska would not have achieved statehood when it did. Indeed, he is recognized as the father of that great State.

Upon leaving the U.S. Senate, he continued pursuing his work, particularly in the field of population control, with the same vigor that earned him the admiration and respect of so many of his colleagues in this body.

Those of us who were fortunate to serve with him and know him prized his friendship. I will miss Ernest Gruening and all that he stood for.

CIRCUS CAPITAL OF THE WORLD: PERU, IND.

Mr. HARTKE. Mr. President, two circuses were recently in Washington, D.C., simultaneously, and the crowds at both day after day testified to the love which Americans of all ages have for the circus. Perhaps it is the lion trainer who defies death to go into a cage filled with representatives of that species which has been called the King of the Jungle; or it may be the high wire artists whose sense of balance is exceeded only by their seeming lack of fear. The clowns are always a favorite as are the animal acts. There is so much in the circus which brings enjoyment to millions of Americans each years as troupes tour the country.

Peru, Ind., is the home of the American circus. At one time, several circuses made their winter headquarters there. Its deep involvement with the circus has earned Peru the designation "Circus Capital of the World."

Each year, thousands of Americans visit the Circus Capital of the World and spend time at the festival which features an amateur three-ring circus. It is a wonderful event performed in an arena half as big as a football field.

Mr. President, I invite my colleagues to join me at Circus City this year on July 12 and 13 and on the 17th through the 20th and ask unanimous consent that the text of a brief brochure describing the circus days be printed in the RECORD.

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

TEXT OF CIRCUS BROCHURE

No vacation in America's Midwest is complete unless you spend a day in the "Circus Capital of the World", Peru, Indiana. Each summer during the second and third weeks of July, residents of this community present a full amateur three-ring circus which is so good that many visitors have to be told that it is not a professional show. NBC has done an hour-long documentary TV program about it.

It is very fitting that Peru is the setting for this yearly extravaganza. During the heyday of the professional circus, Peru was the winter quarters for seven of the world's major circuses. At the site of one of these, now the Paul Kelly animal farm, circus animals can still be seen. It is about six miles south of Peru on U.S. 31.

Children and young adults take a part in staging this colorful display. Thrilling trapeze acts, aerial artistry, all expertly rendered, whisk the audience back to the late 1800's and the early 1900's.

In 1969 the Festival finished roofing its remodeled lumber yard. Now it has a performing arena half as big as a football field. There is also a museum area to house the collection of circus relics, one of the finest collections in the world.

One of the highlights of the Circus City Festival is the big Circus Parade held on the final Saturday at 10 a.m. Entries from all over the Midwest make up this magnificent spectacle.

During its first years under roof, several civic, cultural and recreational events have been held when the building isn't being used for circus practice. The goal is to attract many such events for a community development and create a source of income to fully complete the building's interior. Each year new acts are put in and older acts are retired for a few years. Tickets are priced from 50¢ through $3.00. Clip and mail the coupon on the back page for your ticket orders.

A BILL OF RIGHTS FOR JUVENILES

Mr. MATHIAS. Mr. President, the Senate Judiciary Committee has recently considered S. 821, the Juvenile Justice and Delinquency Prevention Act of 1974. This legislation was drafted in the Subcommittee on Juvenile Delinquency, of which I am a member. It would provide for a bill of rights for juveniles, for the expansion of Federal assistance to States for juvenile programs, and for a number of other important efforts.

The problem of juvenile justice in America is one that requires our most serious attention. The consequences of juvenile crime go beyond the criminal acts themselves and reach into the future where the failure to adequately rehabilitate and deal with juvenile problems can reap a whirlwind of more serious criminal acts perpetrated by adults. I hope that the Senate will soon take action in this area.

I ask unanimous consent that a letter to Chairman JAMES O. EASTLAND, from Andrew L. Sonner, State's Attorney, Montgomery County, Md., and Chairman, Region IV, Criminal Justice Planning Board of the Maryland Governor's Commission on Law Enforcement and the Administration of Justice, be placed in the RECORD at this point, together with a resolution concerning S. 821 adopted by the region IV Criminal Justice Planning Board. I also ask unanimous consent that the names of the board members, contained on the letter, be printed in the RECORD.

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

[Maryland Governor's Commission on Law Enforcement and Administration of Justice]

REGION IV PLANNING BOARD,
Washington, D.C., June 24, 1974.

Hon. JAMES O. EASTLAND
Chairman, Committee on the Judiciary, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: Attached for your consideration is a Resolution to support S.B. 821, a Bill entitled: **"Juvenile Justice and** Delinquency Prevention Act of 1974". This Resolution has been drafted by the Region IV Criminal Justice Planning Board of the Maryland Governor's Commission on Law Enforcement and Administration of Justice. The Region IV Planning Board has the responsibility for administering the Law Enforcement Assistance Administration's Block Grant Program in Montgomery County, Maryland and Prince George's County, Maryland.

The Region IV Planning Board, which is composed of elected officials, representatives of criminal justice and juvenile justice agencies and citizen members, is very much concerned with the prevention and rehabilitation of juvenile offenders.

The Region IV Criminal Justice Planning Board has resolved to support fully the provisions of S.B. 821 and urges its passage with all deliberate speed.

Sincerely yours,

ANDREW L. SONNER,
State's Attorney, Montgomery County, Md., Chairman, Region IV Criminal Justice Planning Board.

BOARD MEMBERS

Hon. Andrew L. Sonner, Chairman; Mr. Edward P. Camus, Vice Chairman; Sheriff Don Edward Ansell, Judge Thomas R. Brooks; Dr. Lloyd E. Church, Mr. Richard J. Ferrara.

Hon. John J. Garrity, Hon. James P. Gleason, Hon. David H. Goldsmith, Hon. William W. Gullett, Mr. Bruce R. Harrison, Hon. Sidney Kramer.

Mr. Walter N. Liebert, Hon. Arthur A. Marshall, Mr. Raymond L. McKane, Hon. Kenichi Nishimoto, Mr. Larry E. Sander, Col. Roland B. Sweitzer, Mayor Decatur W. Trotter, Mr. Leonard M. Walters, Col. Kenneth W. Watkins.

RESOLUTION TO SUPPORT SENATE BILL NO. 821, ENTITLED: "JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974"

Whereas, juveniles account for almost half the arrests for serious crime in the United States today; and

Whereas, juvenile courts, probation services and correctional facilities are not generally able to provide individualized justice or effective help; and

Whereas, juvenile courts, foster and protective care programs and shelter facilities are inadequate to meet the needs of neglected, abandoned and dependent children, who, because of this failure, may become delinquents; and

Whereas, existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs; and

Whereas, existing Federal programs have not provided the resources required to meet the crisis of delinquency; and

Whereas, this Bill proposes to establish the Office of Justice and Delinquency Prevention within the Law Enforcement Assistance Administration of the U.S. Department of Justice; and

Whereas, the Office of Justice and Delinquency Prevention is authorized to make grants to States and local governments to assist in planning, establishing, operating, coordinating and evaluating projects to improve the juvenile justice system; and

Whereas, the Region IV Criminal Justice Planning Board has the responsibility for planning and administering the Law Enforcement Assistance Administration's Block Grant Program in Montgomery County, Maryland and Prince George's County, Maryland; and

Whereas, the Region IV Criminal Justice Planning Board is composed of twenty-one (21) members, a majority of whom are elected officials, in addition to representatives from the police, courts, corrections and juvenile justice agencies in Montgomery County, Maryland and Prince George's County, Maryland; and

Whereas, the Region IV Criminal Justice Planning Board has indicated that prevention of juvenile crime and rehabilitation of juvenile offenders is its first priority;

Now, therefore, be it resolved by the Region IV Criminal Justice Planning Board:

That Senate Bill No. 821, entitled: "Juvenile Justice and Delinquency Prevention Act of 1974", submitted in the Senate on February 8, 1974, should be enacted into law with all deliberate speed; and be it further resolved that Senate Bill No. 821 be amended where necessary to ensure compatibility with the "Crime Control Act of 1974", and its Block Grant System for planning and fund distribution; and be it further resolved that the supervisory boards appointed by the Governors (Title IV, Sec. 482, a, 1, 2) to administer this program be composed of a significant representation of officials who are engaged in juvenile delinquency and justice services at the State and local level.

FIRST ANNUAL AWARD DINNER OF THE RALPH BUNCHE INSTITUTE ON THE UNITED NATIONS

Mr. McGEE. Mr. President, recently two great Americans—I. W. Abel and the late Ralph Bunche—were honored at the first annual award dinner of the Ralph Bunche Institute on the United Nations.

As guest of honor, Mr. Abel, international president of the United Steelworkers of America, was awarded the following citation which stated:

In profound appreciation of his outstanding service to his fellow man. He has dedicated his life to the permanent revolution of American democracy; he has worked tirelessly for genuine brotherhood at home and abroad; he has generously and selflessly offered opportunity to the voiceless and powerless; and he has pioneered new concepts of industrial peace and labor-management cooperation.

As United States representative to General Assembly sessions of the United Nations and the International Labor Organization and to many other international meetings, I. W. Abel has contributed significantly to furthering the aims and purposes of the United Nations Charter. He has brought the highest honor to himself, to American labor, and to his country.

The award was presented by Mr. Vernon E. Jordan, Jr., executive director of the National Urban League.

An eloquent tribute to the late Dr. Ralph Bunche was delivered by his closest coworker on United Nations peacekeeping for almost two decades—Mr. Brian Urquhart, who is Under Secretary General of the United Nations for Special Political Affairs. At a time when American peacemaking efforts in the Middle East have reached a new peak, I feel it would be highly appropriate to insert into the RECORD this tribute to a great American, whose services to the United Nations as a peacemaker won him the Nobel Peace Prize.

I ask unanimous consent that Brian Urquhart's speech be printed in the RECORD.

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

ADDRESS BY BRIAN URQUHART AT THE FIRST ANNUAL AWARD DINNER OF THE RALPH BUNCHE INSTITUTE

It is a great honour to be asked to address this First Annual Award Dinner of the Ralph Bunche Institute on the United Nations. It is also a pleasure to have the opportunity to talk about two closely related subjects very dear to my heart—Ralph Bunche and the development of the peace-keeping capacity of the United Nations.

Ralph Bunche was by any standard an extraordinary man, but he was so self-effacing that while his work is remembered and lives on in the United Nations in the most practical way, he himself, as he would have wished, seems, for the moment at any rate, to have taken a second place. This tends to happen to dedicated and selfless public servants, and sometimes I think Ralph Bunche's modesty was excessive. Nonetheless, it is refreshing to remember a public figure who refused to write his memoirs on the grounds that writing about himself would bore him to death, and who, until he was overruled by Secretary-General Trygve Lie, refused the Nobel Peace Prize because, as a member of the United Nations Secretariat, he was ineligible and, as he put it, "peace-making at the U.N. is not done for prizes".

I worked with Ralph day and night for more than 20 years, and it was an education as well as a profoundly enjoyable experience. He was the most human and down-to-earth of men, full of kindness, imagination, courage, humor and the best kind of practical idealism. Having an almost fanatical respect for the clear and accurate use of language, he disliked fuzzy, high-minded catchwords, which tended to provoke his sardonic humour. "May I speak a word or two against brotherhood?" he once said. "I used to make speeches about brotherhood, but I never mention it any more. Brotherhood is a misused, misleading term. What we need in this world is not brotherhood but co-existence. We need acceptance of the right of every person to his own dignity. We need mutual respect. Mankind will be much better off when there is less reliance on lip-service to 'brotherhood' and 'brotherly love,' and much more practice of the sounder and more realistic principle of mutual respect governing the relations among all people. There are a hell of a lot of people in the world—black *and* white—that I wouldn't want even as distant cousins, much less as brothers."

Ralph remains vividly in our minds because, while completely lacking in affectation or pretention, he was full of the qualities of character and intellect which come from an unflinching and continuous effort to face the world as it is. He was secure in the simple values and ideals in which he passionately believed—a relentless honesty, a respect for human beings, and a conviction that the life of all people could, and should be, enhanced. Especially in later years, Ralph was torn between his crushing duties at the United Nations and his longing to work on the problems of his own country. If he had not been persuaded by successive Secretaries-General to stay on, the world Organization would have been deprived of one of its most effective resources. He was the model of an international public servant, both by the strength and integrity of his character and the force of his intellect.

In the United Nations Bunche has left his own living monument in the work which is now called peace-keeping—a beachhead of hard-won principles and a series of precedents and practical examples of skill, technique and ingenuity which constitutes the tradition which guides us daily in our various tasks.

In a life full of achievements, Ralph was proudest of his unique contribution to building up this peace-keeping capacity of the United Nations. But his career covered a far wider field. It is worth briefly recalling that career as an indication of what an international civil servant can achieve even in the present very imperfect state of international co-operation and organization—provided, of course, that he has sufficient stamina, imagination, determination, skill and belief in what he is trying to do.

Ralph Bunche came to the United Nations as an expert on colonialism and racial questions—in the late thirties he had collaborated with Gunnar Myrdal on "The American Dilemma"—but in 1947 he was diverted, much against his will, to the Middle East question. Incidentally, his later record has tended to overshadow the leading role which he played in questions relating to decolonization in the post-war years and, in particular, in the setting up and functioning of the international Trusteeship System. In June 1948 he became the Middle East Mediator's chief assistant, and when Count Bernadotte was assassinated in September 1948, Ralph took on the Mediator's job.

On the island of Rhodes from January to July 1949, he was the guiding spirit and mentor in the negotiations which produced the Armistice Agreements between Israel on the one side and Lebanon, Syria, Jordan and Egypt on the other. It was an extraordinary achievement and, in the course of it, Bunche also pioneered the use of United Nations Military Observers on a large scale, to supervise a truce, creating the model for other observer operations.

Bunche then returned, as Director of the Department of Trusteeship and Non-Self-governing territories, to his first preoccupa-

tion—decolonization. But when Dag Hammarskjold became Secretary-General, he was soon brought into the Secretary-General's office as one of two Under-Secretaries-General without specific departmental responsibilities, who were to work directly with the Secretary-General on special assignments. In Bunche's case, these assignments were largely in the field which later came to be known as peace-keeping, and he became the architect of the United Nations peace-keeping operations in the Middle East, in India and Pakistan, in Lebanon in 1958, in the Congo in 1960, where he headed the operation for the first months, and, later on, in Yemen and Cyprus. At the same time he was the Secretary-General's chief adviser in critical situations where the quiet diplomacy and good offices of the Secretary-General were deployed, and he was frequently entrusted with the most delicate negotiations. His last major effort, when he was already critically ill, was the successful negotiation over a period of eighteen months in 1969 and 1970 with Iran, Great Britain and Bahrain over the future of Bahrain.

I have given only the briefest outline of an extraordinary twenty-five years of back-breaking effort and achievement. It is not very well known to the public because Bunche himself believed that discretion and confidence were more important than publicity or getting the credit, and he relentlessly discouraged all efforts to publicize his own role in great events.

Nonetheless, his grasp of fundamentals, his pioneering work and infinite capacity for taking pains have a critical relevance for the world—and for the United Nations—of today. On the individual level he exemplified the qualities required for the extremely difficult task of international peace-keeping. On the organizational level he built up the principles and techniques of peace-keeping which are now once again being developed with a new hope and a new momentum. He also kept a critical and realistic eye on a far wider range of national and international issues.

Dag Hammarskjöld once said that "Politics and diplomacy are no play of will and skill where results are independent of the character of those engaging in the game. Results are determined not by superficial ability but by the consistency of the actors in their efforts and by the validity of their ideals." Bunche's ideals included a belief in the essential goodness of men which led him to the conviction that no problem of human relations is ever insoluble. He was also convinced that the United Nations could, and must, be made to work and that no international problem was so hopeless that it was not worth trying to solve it. He knew that in order to grapple with other people's problems, one must first respect them and understand their aspirations, fears and motives. His enormous knowledge and experience of the tangled skein of human affairs was complemented by an institution and a sense of timing that went far beyond sound political judgment and skill. Beneath his scepticism, shrewdness, obstinacy and irreverence of pomp and pretention, there burned a passion for justice, decency and human dignity.

Perhaps I should emphasize here what many in this audience know from personal experience. United Nations peace-keeping is symbolized by the men in blue helmets on troubled frontiers and truce lines. The other, and less known, side of peace-keeping is the continuous and usually unpublicized diplomatic activity here at United Nations Headquarters to maintain the conditions and the delicate balance in which U.N. observers or peace-keeping forces can operate effectively and to ensure that the right directives are given to the men in the field. The Security Council, the permanent representatives of all the Governments concerned and the Secretary-General and his staff are partners in this continuous effort to maintain the position and effectiveness of peace-keeping operations.

Bunche was a very realistic man. He had no illusions about the obstacles confronting the United Nations. He knew that in an organization of equal sovereign states, it is often possible in practice to do more in a given situation by skillful quiet diplomacy and discreet activity than governments are prepared publicly to accept in principle. This is only true, however, as long as those concerned never forget that governments have to be persuaded to co-operate and cannot be forced to do so.

In his relations over the years with government representatives on a huge variety of problems, Bunche observed simple rules. In private conversation he was frank and outspoken, sometimes to the point of bluntness. In public he was discreet, taciturn and even secretive, often to an extent which the press, and even his closest colleagues, found exasperating. It was not possible, however, to deny that this method largely accounted for the great confidence which he inspired.

Bunche was a tireless champion of the notion of international civil service as a key factor in the future world order. He insisted on a rigid practical observance at every level of the spirit of Article 100 of the Charter which states that "the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization." The main strength of U.N. peace-keeping operations is their standing as international and genuinely objective presences, and Bunche never relaxed the day-to-day effort to preserve their integrity and the confidence of governments in that integrity.

Although the nature and conduct of United Nations peace-keeping has been a source of controversy in the United Nations for many years, recent events, especially in the Middle East, have opened up new prospects and a new hope for developing the practical capacity of the world Organization. The combination of bilateral diplomacy and the multilateral efforts of the United Nations has given to both a new effectiveness. The support of the Security Council for a new and more broadly based peace-keeping effort has overcome, for the time being at least, some of the traditional difficulties of peace-keeping and has reasserted the value of impartial international machinery both in defusing conflict and as an alternative to the risks of larger confrontations.

I am sure that Ralph Bunche would have been enthusiastic about the new elements that emerged during discussions last October for the establishment of the present United Nations Emergency Force in the Middle East. As one who was deeply involved in the day-to-day supervision of the peace-keeping operations in the Congo, he experienced at first hand the handicaps of lack of broad political support for United Nations peace-keeping. No one was more conscious of the desirability of broad-based political support, particularly among the Permanent Members of the Security Council, for United Nations peace-keeping operations. He would also have welcomed the increasing role of the developing countries in peace-keeping, a role which he pioneered in the early days of the United Nations operation in the Congo.

Many basic problems remain—among them the development of better means for settling international disputes and minimizing the risks of confrontation, the reconciliation of national sovereignty and international responsibility, and the relationship between the authority of inter-governmental bodies, especially the Security Council, and the responsibility of the Secretary-General. Often these problems seem to give less trouble in practice than when we try to solve them in the abstract. The necessity to respond to urgent and practical challenges, such as the world community faced in the Middle East in late October last year, tends to bring out the latent common interest in peace which in quieter times is sometimes obscured by more superficial international differences. It is in such critical moments that the potential value of the United Nations as a peace-keeping instrument becomes apparent. And it is then that Ralph Bunche's pioneering work in peace-keeping shows its strength and soundness.

To make the peace-keeping and peace-making capacity of the United Nations more widely effective and more reliable is a continuing task to which many in this room have contributed and are contributing. I am sure that the work of the newly formed Ralph Bunche Institute at the City University of New York will play an important part in that task. There is no challenge which would have appealed more to the man after whom the Institute is named.

SCIENCE AND TECHNOLOGY LEADERSHIP

Mr. MOSS. Mr. President, at one time in the ancient world China was a leader in science and technology. Her engineering produced the first big canal and the Great Wall, which became a wonder of the world. The Chinese invented gun powder, rockets, printing, and paper. Fleets of Chinese vessels, centuries ahead of Western design, explored the East Coast of Africa and began colonization.

In spite of her impressive lead among nations, China allowed herself to fall behind under the Ming dynasty. Why did this occur? Dr. Edward Teller, in a speech to the National Capital Section of the American Institute of Aeronautics and Astronautics on June 11, suggests the reasons.

I would like to commend Dr. Teller's speech to my colleagues and request that it be printed in full in the RECORD.

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

SPEECH BY DR. EDWARD TELLER TO NATIONAL CAPITAL SECTION, AMERICAN INSTITUTE OF AERONAUTICS AND ASTRONAUTICS, JUNE 11, 1974

The question that comes up again and again is, what is the advantage, more than that, what is the practical advantage of space exploration. I can respond to that question quite conclusively by telling you that in the late 15th century, when Christopher Columbus was on his fund raising trip to Queen Isabella of Spain, his argument was that the voyage would make possible better trade with China, a purpose which has indeed been accomplished but only recently by Mr. Kissinger.

However, on the way Columbus seemed to have discovered something else. That story is to remind you that what we promise is one thing, what we perform is another. But contrary to expectations what we perform is, and I think will be, more than what we promised, I do not have the wisdom to foresee the actual result.

Having therefore described my crystal ball as appropriately cloudy, I shall now take you into these clouds. But first let me stay with solid and obvious problems where no

crystal ball is needed. We have an energy crisis. The crisis is real. The crisis is bad for the United States; it may be catastrophic for other parts of the world. And in this crisis NASA is helping in ways that are small and in ways that are large. Harrison Schmitt, scientist-astronaut, who has gone to the moon and who now has his feet back on the common ground is in charge of the small part of the effort. I had the great pleasure of talking with him about everything between the moon and the earth and I would like to mention a couple of ideas which are modestly funded and which I'm sure fully deserve this funding.

The most popular energy source in astronautics is, of course, solar energy. And why not get the abundant solar energy to solve our crisis? There is just one little difficulty. The capital expenditures are too big by approximately a factor of 100. We have to find ways to mass produce, and produce cheaply, the appropriate apparatus to transform solar light into electricity. It is very doubtful whether this can be done; a factor thousand is not easily obtained, but in new technologies they might be obtained. And it would be of tremendous significance if there would be success. The modest investment that exists in this field is certainly justified.

Let me mention an entirely different project which is connected with the energy crisis a little indirectly but which will certainly work, and which will certainly pay off. We are talking more and more, and we should be talking more and more, about the recovery of materials. For instance all cars should not be junked when they deserve to be junked, but the materials in the cars should be recovered. That is being practiced now, but when it is practiced the car as a whole is junked and what you get back is scrap iron. However the car is more than scrap iron even as far as materials are concerned.

There is chromium, there is copper, there are other materials, and the value that you can recover if you separate out these components and make them available each one in its place is much greater. There is at the same time a saving in energy, because in producing these materials, if you wouldn't recover them, energy would be spent. And this we now can save.

There are plenty of other projects; I happened to think of these two. The ingenuity, the technical know how of NASA is being put to good use.

But let me go back to the big aspect, the field most proper to NASA. One of the possible catastrophic consequences of the energy crisis is in the feeding of the people of the world. Many of the developing nations, for instance India and many others, are hit hard. These nations survive today, their people can be fed today, only on account of the green revolution which has introduced crops growing more food per acre. But the new grains, while they perform better when fertilized, don't perform when not fertilized. And the cost of the fertilizer has skyrocketed. The most important fertilizers, the nitrogen based fertilizers, which are based on gas and oil, are three times as expensive as they used to be a year ago. The result may be starvation for millions of people.

Now what does NASA have to do with this? A great deal. Catastrophies can be avoided; at least they can be rendered less acute, if we foresee them, if we learn where it is that crop failure threatens. In the United States we have good enough reporting and we don't need NASA, but abroad it is a different story. In many of the developing countries it is from space that we can first see that drought is beginning to make an inroad, where blight endangers the crop, where the grasshoppers get going. These troubles might be remedied if seen soon enough and if they can't be remedied at least we shall be forewarned in which areas of the world there is real trouble and where real help will be badly needed.

From a global point of view the situation is even worse. There are people in the world who are powerful and who are less open than we are. Our crop prospects are available. The Russian prospect for the harvest is not. Yet a success or failure of crops in Russia affects the world. By now, the Russians consume per capita almost as much grain as we do and they want it, and they are quite willing to let their allies the Hindus starve. And worse than that, in order to make good wheat deals, they don't give warnings of what their needs on the market will be.

I object to capitalism. I object to the dirty tricks of capitalism. Particularly when practiced by Communists.

Now we can contribute to needed openness in the world because we have satellites that can observe. I would like to see better and I would like to communicate promptly and openly in the interest of feeding all the peoples of the world.

Satellites, in looking back on Earth, are useful in this way and they are useful in many other ways. Dr. Fletcher, I know that you remember a bad and violent girl by the name of Camille. She was a hurricane and she tore Corpus Christi apart. But NASA caught her, reported on her and told the people of Corpus Christi to get out of the way. She killed a few hundred people, but if NASA had not been there with a warning (we would have no stations in the Caribbean which could have warned) 50,000 people may have been killed or at least injured on that one occasion.

Ladies and gentlemen, I do not believe that the money spent on NASA is wasted. In fact I sometimes have a sneaking suspicion that the money that is not spent on NASA may be wasted. I believe that with weather satellites around, the time will come where we shall have good enough global weather reporting from the angels point of view and we can use these data not only to predict weather but to study how weather develops with the help of electronic computers. We will not be able to predict the weather for a year in advance because weather is full of trigger effects. But we can study the trigger effects and when we have understood them we might be able to influence weather and when that happens we shall have lost our last safe topic of conversation. And if that is not an accomplishment I don't know what is.

I have talked about practical applications and left out some that you can fill in. I want to turn to my fields of interest in science, to those fields where we gain nothing but knowledge, where we satisfy nothing but our curiosity. Yet curiosity is the most valuable heritage that we got from our ancestors the monkeys. It has carried us to the Moon, it has made modern technology possible and, as I said in the beginning, the unpredictable results are the best.

What can you do in a place like Skylab apart from looking at the sun? Well, I have said on previous occasions and I want to repeat it now, that the theme song of NASA should be the very old and beautiful song, which I will just recite: "I Have Plenty of Nothing, Nothing Is Plenty for Me." And by nothing I don't mean an absence of dollars, although that may begin to be true. By nothing I mean a vacuum, a real vacuum where you may have not more than a few thousand molecules per cubic centimeter.

We pay a high price for a vacuum on earth in scientific experiments. Think of this pen which I hold in my hand as broken. Think of my fitting the pieces together. Will it be whole again? Well you know I wouldn't succeed and you know why: because the broken pieces are a jagged array of microscopic and submicroscopic hills and valleys, and I can't make them fit. But let me take a piece of graphite and break it. When graphite breaks, it breaks along a crystal surface which is completely plane, because graphite is put together from sheets of tightly bound carbon atoms. As we try to fit that together it won't work either, it won't stick. Why not? Because in a time much shorter than a second, the surface that was originally clean has become dirty.

Molecules from the air will sit down on it, stick to it and the two surfaces no longer stick. If I do the experiments in a vacuum I think we will be able to break graphite and put it together again, which is just a nice demonstration. It might not be a useless demonstration because we can prove that the surface remains clean. It might be a sensitive test of how good your vacuum has been.

Now these surface problems are more than toys, more than mere demonstrations. Many of our instruments in electronics are important in hearing aids, important in television —God forgive us for television (I shouldn't have said that, television after all performed a useful purpose at the time of the Moon landings)—and they are important in making computing machines and even in defending the United States. It's the one and only field in which we are still ahead of the Russians, as far as defense is concerned. Surfaces, the study of them, the making and the modifying of clean surfaces, can be decisive in the further development of electronics. This is a highly practical field.

In the recent experiments in Skylab a very remarkable experiment was carried out. People tried to grow crystals in a gravitationless surrounding, and they built the most perfect crystals ever produced by human hand. Some perfect crystals may be good starting points again for electronics. Clean silica crystals in which you can insert the appropriate perturbations and impurities could be manufactured in space. Here we have something more valuable than gold or diamonds so that you might indeed want to go to space to obtain it.

Ladies and gentlemen, where should the money come from? Of course from Congress. It is very possible that there could be another source and that should not diminish our efforts to persuade our own Congress to go ahead. The United States is not alone in the world. I have already pointed out that our activities in space may be more useful for starving people elsewhere than they are in the United States. In space an international effort is fully justified. Weather predictions are needed around the world and if international cooperation is useful in space, international cooperation in space may serve as a symbol, more practical and more valuable than the United Nations.

This may be a long distance off. But I hear that the Germans are beginning to put money into space for the simple purpose to get more deeply involved in developing technologies. Where the Germans go, the Japanese cannot be far behind. So I wouldn't give up. There seems to be another bidder who might be unexpected, but at least he has some money. I mean the Shah of Iran, who is interested in a satellite so as to be better informed about what's going on in neighboring countries. (That this is an important topic many of you know.) We might have bilateral arrangements and surely we might look for multilateral arrangements which are the really important ones.

All of this of course will be immensely helped by the shuttle program which will

allow us to put, at a lower price, many space vehicles into orbit for all the purposes I described and for very many which I did not.

But now I would like to look farther ahead. We have been to the Moon and we got back. We got back rather rapidly and as far as I'm concerned, quite unfortunately. We should have stayed. We should have established a base on the Moon: a laboratory to let some of our students do scientific studies on the Moon and get Nobel Prizes, in astronomy, about many other subjects.

Let me mention to you one point that Jack Schmitt mentioned to me. It is extremely interesting and in a technical sense quite relevant. The top few feet of the Moon contain hydrogen. Hydrogen atoms, protons, coming from the sun have embedded themselves throughout the ages so that from one cubic foot of "green cheese" you can get one cubic foot of hydrogen gas at normal temperature and pressure. Now this to my mind is extremely important. Oxygen we have plenty of on the Moon, water unfortunately we don't—at least none has been found. But hydrogen has been found and oxygen from iron oxides can be obtained relatively easily. From the oxygen and hydrogen we then can get concentrated power. One place where there will not be an energy crisis is the Moon. We need not worry about power on the Moon, there will be plenty. You even can put a refueling station onto the Moon. You send up a rocket and you don't carry the fuel for the return trip and then your rocket can be small and cheap. You refuel and come back to Earth and save your rocket. This might make the trips so cheap that the tourist business even might start. I would apply myself for such a trip except that I have promised my mother on her 70th birthday that I won't go to the Moon.

Refueling on the Moon; there is still another application. To go to the Moon to refuel puts you into a position where you can take off for months, with rockets smaller than have been built so far, or at least no bigger. The manned exploration of the solar system can be made into a reality with existing technology. Not today, because we don't have the money, not tomorrow because we don't have the lunar bases, but the day after tomorrow, not in the distant future.

I'm afraid I've talked too long. I have started with China, I will end with China. I have been very much interested in the history of science and technology. Why did this remarkable mutation, the industrial revolution, occur of all places in Europe in the 15th century? It would have been hard to predict such an event and if somebody predicted it he would have located the revolution in China. The Chinese discovered silk. They built, around the time of Christ, the first big canal. The engineering in the Chinese wall was outstanding. They invented gunpowder, rockets, printing, paper. They invented the proper use of horses. The harnessing of horses came to Europe from China.

Why did they fall behind? Why did we forge ahead? There was a critical time in the 15th century when Africa was explored. The west coast by the people sent out by Henry the Navigator and the east coast by the Chinese who came with the monsoons in one direction and sailed back with the monsoons during the other season. And then the internationally minded Tartar dynasty was overthrown and the Ming dynasty took over, and with it Neo-Confucianism was born. On imperial edict the Chinese started to look inward. They produced in the Ming period the best porcelain ever, the best ancient scholars ever, but technology and interest in the rest of the world withered. The Ming emperors forbade the travel outside China, specifically these expensive, senseless trips to some outlandish portion of the world which contained nothing but savages.

Our Ming emperors in the U.S. made a similar edict recently. I hope they shall not prevail.

ABC NEWS DOCUMENTARY ON HEALTH CARE FOR CHILDREN

Mr. JAVITS. Mr. President, I call to the attention of my colleagues an ABC news investigative documentary on health care for children, which would be on the air at 10 p.m., e.d.t. on Wednesday, July 17.

I believe this program is worthy of our attention and I ask unanimous consent that the full text of the release describing the program be printed in the RECORD.

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

THE MYTHS AND REALITIES OF HEALTH CARE FOR CHILDREN IN THE UNITED STATES PROBED ON "ABC NEWS CLOSE-UP ON CHILDREN: A CASE OF NEGLECT," AIRING JULY 17

"I know a lot of children who never saw a doctor . . . school age children who never saw a doctor . . . They doctor 'em at home the best they can, the parents do . . . do what they can for 'em. Sometimes they survive and sometimes they don't."—Jay Blevins, disabled coal miner, Little Mud, Kentucky.

ABC News examines the myths and realities of health care in the United States for children whose families find it difficult or impossible to pay, on the documentary special, "ABC News Close-Up on Children: A Case of Neglect," airing Wednesday, July 17 (10:00–11:00 p.m., EDT), on the ABC Television Network.

In announcing the next program in the Peabody Award-winning "Close-Up" series, Av Westin, ABC News Vice President and Director of Television Documentaries, said: "This is a report about everyday health problems we might easily do something about and the price we pay because we do not.

"There is a myth that children of the poor receive more care—for free—than those from middle income families. Yet the most authoritative estimate is that at least 12 million children in this country simply do not receive health care from year to year. Why?

"Immunization is one of American medicine's great success stories. But nearly half of all poor children have not been immunized against polio. Why?

"The United States has one of the higher infant mortality rates in the industrialized world. A child would have a better chance of living through its first year in Iceland or Japan. Why?"

ABC News investigates government failures—and successes—in the child health care field, covering conditions across the country from major cities to remote mountain communities in Kentucky. The report shows, for example, that a child on Medicaid, the federal program established to pay medical costs for welfare families, receives an average of $237 a year worth of help in Wisconsin. But a child in Mississippi receives only $43.

The documentary special also examines the impact of the federal government's failure to implement and fund programs. ABC News reports that today, five years after Congress authorized the start of a program to screen and treat Medicaid children, only 10 percent of eligible children have been tested.

"But we are not talking just about the poor," commented Pamela Hill, producer-director for the program and producer of the prize-winning "ABC News Close-Up on—Fire" "We are talking, too, about children of working people, who most resent those on welfare. The child whose parents make from $6,000 to $10,000 a year has less spent on him or her than a child of any other major economic group."

Covering a successful federal Maternal and Infant Care project to reduce infant mortality rates among low income families, ABC News cameras film the expert care given during the birth of a baby at Jefferson Davis County Hospital in Houston, Texas. ABC News cameras also visit the Carver Clinic in Dallas, one of a limited number of federally financed projects which offer the full range of diagnostic tests and medical services to the disadvantaged.

ABC News Washington Correspondent Herb Kaplow is the narrator for the prime time special. Brit Hume is the investigative reporter and co-writer with Pamela Hill. "ABC News Close-Up on Children: A Case of Neglect" was filmed in Massachusetts, Washington, D.C., West Virginia, Kentucky and Texas.

THE DEATH OF FORMER CHIEF JUSTICE EARL WARREN

Mr. McGEE. Mr. President, I was deeply saddened by the death of former Supreme Court Chief Justice Earl Warren earlier this week. Even though Earl Warren already stands tall on the pages of history of our Republic, in my estimation he will continue growing in stature as the Nation realizes the benefits from his tenure as Chief Justice of the Nation's highest Court.

Earl Warren came to the Supreme Court in 1953 at a time when there was a vital need for our governmental institutions to take cognizance of a dynamic and rapidly changing Republic. He assumed the leadership of the Supreme Court at a time when our institutions were straining to adapt to new social needs and developments. He brought the concept of constitutional equalitarianism and the American tradition of individual freedom into the forefront of the Court's consideration. Yet, while it took time for historic decisions of the high Court on these fronts to generate substantive efforts within the other two branches of Government, the tide was turned within our democratic processes.

As writer Alan Barth noted in the Washington Post yesterday morning:

By nearly every standard that can be said to measure judicial stature, Earl Warren must be counted among the great chief justices of the United States—the greatest in all probability, since John Marshall.

One of the amazing strengths of our democracy has been our ability to bring individuals of exceptional capability and talent into our institutional processes during critical periods of our development as a nation. Earl Warren was one of these individuals and, as a society, we must remain eternally grateful to his contributions which breathed a new life into our constitutional concepts and processes.

Yet, even though Earl Warren stepped down as Chief Justice in 1969, he continued his dedicated pursuit of human ideals. He was a forceful and active advocate of a strengthened U.S. role in the

United Nations. He retained a strong sense of belief in the United Nations as a vehicle for social and political justice in the world. He worked hard and diligently within the United Nations Association of the United States of America with the same zeal and dedication to the betterment of mankind that he demonstrated as Chief Justice of the Supreme Court.

As a dedicated supporter of the United Nations, I was fortunate in working closely with Earl Warren on a number of occasions involving UN issues. I derived tremendous benefit and inspiration from this association, for which I will always be grateful.

While the Nation is saddened by the death of a truly great American, we will benefit daily from the significant contributions the Supreme Court of Earl Warren made to the enhancement of the individual within our society.

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

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

CHIEF JUSTICE WARREN: HIS COURT RESHAPED THE NATION

(By Alan Barth)

By nearly every standard that can be said to measure judicial stature, Earl Warren must be counted among the great chief justices of the United States—the greatest, in all probability, since John Marshall.

Like John Marshall, Earl Warren presided over the Supreme Court during a period of dramatic change in the character of American Life. The "Marshall court" at the inception of the Republic wrote upon a clean slate in giving vitality to the United States Constitution and in delineating for itself a decisive role as a shaper of the national destiny. The "Warren court" adapted the institutions of a developing society to the needs of a fully developed nation, a great military and economic power in a world made intimate by scientific and technological advances altogether beyond the imagination of the Constitution's framers.

It is apt to be misleading to designate a court by the name of a Chief Justice who is, after all, but *primus inter pares* among its members. But in the case of Earl Warren as in the case of John Marshall, the designation seems justified not alone as the mere indication of a time period but as a recognition of leadership and influence.

The court over which Warren presided was an extraordinarily vigorous one, replete with powerful personalities. He was surpassed by several of its members in legal learning, in felicity of expression, in depth of judicial perception and philosophy. As administrator of the court's affairs, however, he gave the disparate justices a measure of unity and a sure sense of the tremendous political role the court had to play in its time.

In ceremonies marking the conclusion of Warren's term as Chief Justice and the installation of Warren E. Burger as his successor, President Richard M. Nixon remarked: "Sixteen years have passed since the Chief Justice assumed his present position. These 16 years, without doubt, will be described by historians as years of greater change than any in our history."

A society once overwhelmingly rural in residence and agricultural in occupation had become predominantly urban and industrial. This shift was accompanied by a vast migration from small towns and villages into great metropolitan centers and brought with it a social upheaval entailing immense alterations in social values and immense problems of social adjustment. An important part of the population movement involved great numbers of Negroes uprooted by technological change from the Southern cotton fields where they had worked first as slaves and later as sharecroppers and who now found themselves penned in the decaying slums of inner cities wholly unequipped by reason of illiteracy and ignorance to compete for a livelihood in an advanced industrial economy.

These black Americans were clamoring for civil rights and for economic opportunity. Migration to the cities made the disproportionately rural representation in state legislatures seem altoegther inequitable and anachronistic. Education, police authority, social institutions, media of communication, esthetic and moral values, even religion, were all undergoing dramatic changes. The law, indeed the whole relation of the state to the individual, had to change with them. And it was over that transformation of the American community that the Warren court presided.

"No decade in American history has brought to the Supreme Court such a diversity of deeply troublesome and controversial questions," this newspaper commented editorially on the 10th anniversary of Warren's appointment as Chief Justice. And a member of Congress remarked, not happily, that "our entire way of life in this country is being revised and remolded by the nine justices of the Supreme Court."

Earl Warren was born in Los Angeles, Calif., on March 19, 1891, the second child of a railroad worker named Methias H. Varran, brought to this country in infancy from Norway. The name was anglicized to "Matt Warren." Matt was not a man of much education but he was intensely interested in reading and in learning—for his children no less than for himself. The family fortunes were not resplendent. John D. Weaver, in a biography of Earl Warren, says that the boy once asked his father why he had no middle name. "Son," Matt Warren answered, "when you were born, we were too poor to enjoy any luxury of that kind."

But Matt Warren was industrious and provident, saving money and investing it shrewdly. He was determined that his children should have the education he had missed. He worked his way up on the Southern Pacific from a mechanic to a master car builder. In 1938, when Matt had retired from his railroad job and when his son, Earl, was district attorney of California's third largest county, the body of the father, then 73 years old, was found in the kitchen of his home, bludgeoned to death with a lead pipe. It was a case of robbery—evidently by someone who supposed the old man had concealed wealth on his premises. The murderer was never found.

Earl did odd jobs when he was young, working for a while as a call boy for the railroad. He did well enough in school but was more interested in sports than in study. He put himself through college and law school at the University of California.

Warren spent about three years in private practice after his graduation from law school and before he enlisted in the Army upon America's entry into the first world war. He saw no service overseas but he rose to the rank of second lieutenant. Following his discharge from the Army, he obtained an appointment as a deputy in the Alameda County district attorney's office and remained a public employee for all the rest of his working years until his retirement as Chief Justice of the United States.

Warren was elevated to the office of district attorney in 1925 and, in the course of 13 years in that post won a reputation as a crusading prosecutor, tough but compassionate and fair. "The only way the racketeers can get control in any community," he once said, "is by alliance with politics, and control of your public officials, your courts, your sheriff, your police chief, your district attorney, and other law enforcement agencies."

Earl Warren was a strict law and order man, known much more for his personal probity and prosecutorial skill than for any sociological pioneering. During Prohibition, he became a teetotaller, not out of any dislike of drinking but out of a disciplined sense of duty. "How can I drink bootleg liquor at a party on Sunday night," John Weaver quotes him as having said, "and then on Monday morning send my deputies to prosecute bootleggers?"

Politically, he was aligned with the right wing of the Republican Party in California. He was an ardent champion of states' rights. As attorney general he was vehement in his denunciation of Communist radicals and as governor vociferously supported the military decision, after the attack on Pearl Harbor, to remove all persons of Japanese ancestry from the West Coast and put them in detention centers in the interior of the country.

He grew prodigiously in office, however. In 1945, during his first term as governor, he became convinced that California needed a state program of prepaid medical insurance. The California Medical Association regarded this, of course, as "socialized medicine" and fought it ferociously. No doubt the sheer irrationality of its opposition served to move the governor into even more shocking forms of progressivism. He undertook the reorganization of the state's antiquated Department of Mental Hygiene, inaugurating a modernization of mental institutions which put California in the forefront in this field. He put through the legislature stringent legislation regulating lobbyists. He fought the petroleum interests to a standstill in obtaining enactment of an equitable highway development bill and in the face of bitter opposition from the private power lobby championed the Central Valley project for the public development of hydroelectric energy.

When Warren ran for a second term as governor of California in 1946, he did so on a record of legislation which extended enlightened and progressive help to the state's unemployed, handicapped, elderly and mentally ill. Moreover, the state was free of debt, and taxes had been cut by above 15 per cent. He won the nomination of both major parties and was resoundingly reelected—the second governor to serve a second term in a cenutry of California experience.

A Democratic governor who served California some years later—Edmund G. (Pat) Brown—said of Earl Warren: "He was the best governor California ever had. He faced the problems of growth and social responsibility and met them head on. He felt the people of the state were in his care, and he cared for them."

Warren had by then, of course, become something of a national figure and certainly the outstanding Western Republic politician. Somewhat reluctantly, as a matter of party loyalty, he accepted the GOP nomination for the vice presidency in 1948 as the running mate of Gov. Thomas E. Downey. They went down to defeat. It was the only election Warren ever lost. But Warren had a third term to serve in the gubernatorial mansion in Sacramento.

In 1952, Warren was a serious contender for the GOP presidential nomination at a convention in which Gen. Eisenhower and Sen. Taft were considered the frontrunners. The California delegation, including the state's junior senator, Richard M. Nixon, was pledged to the governor.

According to John D. Weaver, "Nixon was suspected by the governor's political tacticians of having made a deal to deliver to the general the secondary strength he

would have had to demonstrate if he had failed to get the nomination on the first ballot." The first ballot nomination, in any case, went to Eisenhower, and the nomination for the vice presidency went to Nixon. Whatever the merits of the matter, an enduring coolness developed between Nixon and Warren.

In the final days of his third term as governor, Warren announced that he would not be a candidate for re-election. A few days after this announcement, in September, 1953, Fred M. Vinson, then Chief Justice of the United States, died. President Eisenhower promptly nominated Gov. Warren for that great office, remarking that he made the choice on the basis of the governor's "integrity, honesty, middle-of-the road philosophy . . ."

Warren came to a court diminished in prestige and deeply divided not alone by ideological differences but by personal hostilities among its members. It was a measure of his qualities of leadership that the new Chief Justice managed, from the very outset of his tenure, to heal, or at least to bridge, these divisions. He won at once the warm regard as well as the respect of all his associates. The achievement contributed immeasurably to a restoration of the court's prestige and influence.

One of the great controversies of American history came before the court at the very beginning of Warren's chief justiceship: the question whether state-enforced segregation of Americans on the basis of race is constitutionally impermissible because it entails a denial of the equal protection of the laws.

Historically, the court had held that racial segregation was not unconstitutional provided the facilities afforded the two races were essentially equal. For more than a decade, however, the court had recognized in a series of decisions that the schools, hospitals and other public facilities provided for Negroes were, in fact, markedly inferior to those provided for white persons.

Brown v. Board of Educaton came before the court in Warren's first term. When it was decided on May 17, 1954, the opinion of the court, written by the new Chief Justice himself, had the unanimous concurrence of his associate justices and represented one of the great landmarks in American jurisprudence. "We conclude," Warren wrote, "that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal . . ."

The ruling was soon applied, of course, and with continuing unanimity to fields other than public education. The unanimity of the court achieved under Warren's leadership was a testimonial to his judicial statesmanship and contributed significantly to the impact and effectiveness of the dramatic change in race relations required by the decision. That impact and effectiveness were diminished, however, by the failure of the Eisenhower administration to give the court moral and political support. Massive resistance to the decision began to develop in the Southern states; and from that time forward the Chief Justice became the target of vicious attacks by demagogues and reactionaries, including even a campaign, sparked principally by the John Birch Society, for his impeachment.

A decade later, in 1964, the Chief Justice wrote opinions for the court in six cases decided simultaneously in which the residents of half a dozen states challenged the validity of apportionment in legislatures where sparsely populated rural districts enjoyed the same representation as much more populous urban districts. Under this arrangement, rural residents of the states wielded much more political power than city dwellers.

For a court divided this time 7 to 2, Warren held that this inequality violated the constitutional promise of equal protection. He ruled, moreover, that the requirement of population equality in election districts applied to both branches of bicameral state legislatures, rejecting any analogy between them and the national Congress where the federal Constitution provided for equal representation of states in the Senate regardless of their size or population.

"Legislatures," Warren wrote, "represent people, not acres or trees. Legislators are elected by voters, not farms or cities or economic interests . . . The weight of a citizen's vote cannot be made to depend on where he lives."

This decision was quite comparable in importance and in political impact to the school desegregation ruling and evoked an almost equal sense of outrage among those who viewed it as a judicial intrusion into the legislative domain. It confirmed the view of Warren's critics that he was an inveterate judicial activist. On the other hand, it corrected a political injustice and imbalance that, given the rural ascendency in state legislatures, had no real possibility of correction through legislative action.

The Warren court outraged conservative sensibilities in one additional area, the field of criminal law. Over a decade or more the court wrought a revolution in extending to defendants in state courts the protections guaranteed to them in federal courts by the Bill of Rights. The Chief Justice's most signal contribution in this process was in regard to the admissibility of confessions. A confession, no matter how reliable, must be excluded from a criminal prosecution, he ruled, if it were obtained by coercion, threat or trickery of any sort. "The abhorrence of society to the use of involuntary confessions," he wrote in Spano v. New York, decided in 1959, "does not turn alone on their inherent untrustworthiness. It also turns on the deep-rooted feeling that the police must obey the law while enforcing the law; that in the end life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves."

The strongly held views of the Chief Justice regarding the rights of persons charged with crime found its culmination in what was perhaps the most controversial of all his opinions, handed down in the Miranda case in 1966. The decision held that the police must warn any arrested person, before questioning him in connection with a crime, that he has a right to remain silent, that any statement he makes may be used against him and that he is entitled to consult an attorney (to be provided for him by the state if he cannot afford to hire one himself) before or during any interrogation. Omission of any of those requirements would make a confession inadmissible.

These procedural rights have been an immemorial part of the folklore of American justice. How far they were from observance in reality was attested by the tornado of indignation that the Warren opinion generated from law enforcement officers and district attorneys. It is perhaps profoundly significant, however, that the opinion came from a judge who had had long and ripe experience as a public prosecutor.

To Chief Justice Warren, Anthony Lewis remarked in a distinguished monograph, "justice consisted not of providing a fair mechanism of decision but of seeing that the right side, the good side, prevailed in the particular case . . . Often the framework of the argument seems ethical rather than legal . . ." This appraisal seems in large measure just as discerning. In a speech delivered in 1962, the Chief Justice spoke of law as floating "in a sea of ethics." In a profoundly conscientious sense, he thought of the Supreme Court as a force for "good."

The whole of his career was devoted to public service in an activist sense of the term. He believed, above all else, in righting wrong. His thinking was robust and healthy rather than subtle or sinuous; and it rested on elementary American values—confidence in the good sense of the people, in the utility of freedom, in the ultimate triumph of truth over error. "A prime function of government," he wrote in the only book he ever published—"A Republic, If You Can Keep It"—"has always been . . . to protect the weak against the strong."

Warren's devotion to the public service was marked by an impeccable personal integrity. It is perhaps unique among public men, and certainly unusual, that from the moment he entered public service in California, Earl Warren never took a dime from anyone for a speech, article or any other kind of private or public activity. And once he accepted appointment to the chief justiceship he never manifested the slightest interest in any political office or influence. His commitment to the court was all-embracing.

If his opinons were not particularly notable for elegance or eloquence, they were nevertheless soundly reasoned and made powerful by the feeling of decency and compassion that informed them. At least in the fields of politics and law enforcement, where he had rich experience, his views commanded great respect and influence.

As the leader of an embattled court engaged in adapting the law to new economic and political circumstances, moreover, he displayed a high degree of judicial statesmanship. He was a man of clear conviction and of granitic strength. Once he quit elective office for the bench, he became wholly indifferent to popular favor and to public excoriation. He will be counted, undoubtedly, as one of the titanic figures in the history of the Supreme Court.

Once he joined the court, the only major interruption in his work came when President Johnson persuaded him to become chairman of the commission to investigate the assassination of President Kennedy. The Chief Justice undertook that assignment reluctantly. He apparently believed that a member of the court should not engage in non-judicial activities, but had been convinced by President Johnson that his personal prestige and the prestige of his office was needed to calm public fears that the investigation would be a whitewash. The report of the commission did much to quash fears that the assassination was part of a large conspiracy.

After stepping down as Chief Justice in 1969, Warren remained active in judicial affairs, speaking largely on matters of judicial administration and working at his office in the Supreme Court building. He maintained his lifelong interest in sports and was a regular spectator at football games of the Washington Redskins.

In 1925, Warren married Nina Palmquist Meyers, the widow of a musician who had died when their son, James, was three weeks old. Her mother had died when Nina was three years old, her father when she was 13; and she had been self-supporting ever since. James was adopted by his stepfather, and the family was enlarged in succeeding years by the birth of Virginia in 1928, Earl Jr. in 1930, Dorothy in 1931, Nina Elizabeth (known as Honey Bear) in 1933 and Robert in 1935. It was an extraordinarily close and loving family, retaining its sense of warm unity throughout the whole of Earl Warren's life.

U.S. FOOD SUPPLIES

Mr. HUMPHREY. Mr. President, on July 5, 1974, William Roberts of the New York Times wrote an article entitled "Food Supply Held Ample, Yet United States Could Run Short." This article is an informative and thorough examination of the world food situation.

The article points out the great paradox of our farmers producing far more than Americans can consume while foreign markets are expanding their demand.

As a result of depleted world food reserves, food prices become extremely volatile. Consumers are living in uncertainty about both supplies and food prices.

To assure reliable supplies and more stable prices, we need to establish a food reserve program. Reserves would be available for disaster requirements and would also reduce the uncertainty about adequacy of supplies to meet our export commitments.

Mr. President, 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:

FOOD SUPPLY FIELD AMPLE, YET UNITED STATES COULD RUN SHORT

(By William Robbins)

WASHINGTON, July 4.—There is no excuse for ever getting into a position where we won't have enough food," Tony T. Dechant, president of the National Farmers Union, told a reporter.

Agricultural experts in and out of Government agree that, barring a national calamity of inconceivable proportions, American farmers will never fail to produce more than Americans can consume. And yet, most of them also agree, the United States could run short of food.

The reasons for this paradox hinge on Government decisions and raise hard questions of policy: Should United States export policy always be an open door? How much does the richest nation owe to the world's poor and hungry? Must the Government accumulate grain reserves if the country is to be a reliable supplier to its customers?

All such questions focus on one generally accepted fact. Under current world conditions, to produce enough food for the United States is not enough, because this country has become the major supplier to food-deficit nations, rich and poor.

Last year, the world depended on the United States for 44 per cent of all wheat exports and for half of the shipments of livestock-feed grains.

On the other hand, American agriculture, which would otherwise smother in its plenty, depended on foreign markets for three-fourths of all farm sales of wheat, half of the farmers' soybean sales and a third of their corn sales.

"Food is power," Secretary of Agriculture Earl L. Butz said in an interview, noting the diplomatic leverage that world dependence on American grain provides. But he also stressed the role of the farmers' exports in preventing unmanageable trade deficits. The United States agricultural trade surplus was $9.3-billion last year.

Despite this country's agricultural resources, the United States very nearly ran out of one basic food commodity, soybeans, last year and perhaps would have run short if the Government had not stepped in to cut off exports. This year, the country's bakers warned at one point that the nation might soon find its wheat bins empty.

Even now, with farmers beginning to harvest a record wheat crop—expected to yield two billion bushels—and with the biggest corn crop ever already planted, grain brokers nervously watch each new estimate of prospective yields. For corn, the Agriculture Department predicts that the harvest will be 6.4 billion bushels, about 750,000 more than last year's record production.

A SENSITIVE QUESTION

So sensitive is the question of supplies, and so narrow the current margin between enough and not enough, that each new development starts gyrations on commodity markets.

And because grains are basic to people's diets—they are the basic ingredients in bread, cereals and feeds for meat production—price changes on commodity markets echo in family budgets, affecting how well middle-class consumers will eat and determining whether the very poor can meet their minimum needs.

A relatively small sale, by Canada to China, made wheat prices spurt one day on the Chicago Board of Trade. They dropped later in the day on news of good weather for harvests in Kansas and Illinois. On the same day, corn prices soared because of an estimate by growers that the crops might not come up to Government expectations.

That kind of sensitivity to food supplies is likely to continue for the next year or so, or until bumper crops in the United States and elsewhere widen the margin between stockpiles and the world's needs.

The sensitivity is partly a result of Government food policy, past and present, or what some economists and politicians say is a lack of policy.

POLICY CALLED CHAOTIC

"Our food policy is chaos," Senator George McGovern, Democrat of South Dakota, who is chairman of the Senate Select Committee of Nutrition and Human Needs, told a reporter. And a Government economist, Kenneth Tedor, administrator of the Cost of Living Council's office of food, said in an interview:

"We don't have a food policy, we have an agricultural policy. We have a Department of Agriculture, not a Department of Food."

But he added that this in itself was a form of policy—or at least a free-market philosophy.

"We do have a food policy—a policy of plenty," the Agriculture Department's chief economist, Don Paarlberg, said. This view was also stressed by Secretary Butz.

In the past, a free-market policy would have led to overwhelming surpluses and plummeting prices. Now, it increases concern on the part of many economists and consumers about food security.

When harvesting began this year, the United States had about a 26-day supply of wheat left in its storage bins, a slender margin against scarcity. Next year, the Government hopes to have twice as much, but that is still regarded as less than a comfortable stockpile.

"The world food supply-demand equation is precariously balanced," Lester R. Brown, an economist with the Overseas Development Council, a private research organization, said. "A poor harvest in any major producing country would send economic shock waves not only throughout the food sector of the world economy but, as it fueled the fires of inflation, throughout its other sectors as well."

THE 1972 HARVEST FAILURE

It was a harvest failure, in the Soviet Union in 1972, that brought a trade mission to buy up one-fourth of this country's wheat crop. That action has been blamed by many economists for the tight supplies and much of the food inflation of the last two years.

Arthur Okun, former chairman of the Council of Economic Advisers and now an economist with the Brookings Institution, estimates that because of increased exports United States domestic supplies were reduced 5 to 10 per cent below normal levels last year.

"That had a dramatic impact," he told a reporter, "instead of 5 per cent inflation, we had 9 per cent. A shortage of food translates into a shortage of money, and that raises interest rates and reduces the availability of money for such things as home building."

Such uncertainty has led many consumers and some economists and businessmen to wonder whether the United States can always maintain an open-door policy to foreign buyers and many of them to think about measures to protect American food interests first.

"If the United States consumer has to compete with export demands of an increasingly crowded and hungry world, providing adequate nutrition to millions of lower-income Americans could become an impossible dream," C. W. Cook, chairman of General Foods Corporation, recently told the Senate's Nutrition Committee.

RATIONING IS SUGGESTED

He proposed that the United States make an estimate each year of domestic needs and expected production, and that the Government then make only the difference between those figures available for export.

Some economists have gone beyond that idea to suggest that available exports be rationed to make sure that the wealthier nations don't outbid the poor and leave them with starving millions in times of scarcity.

Others, such as Peter G. Peterson, former Secretary of Commerce and now chairman of Lehman Brothers; D. Gale Johnson of the University of Chicago, and Mr. Fedor, the Government economist, argue that such a policy would be unworkable.

It would be unthinkable, they say, to leave importing countries uncertain about their available supplies each year until the United States is able to make accurate estimates.

The idea is particularly objectionable to Secretary Butz, who once told a reporter: "You can ration with prices, you know." He hastened to add that the United States would not ignore its humanitarian obligations to nations hit by hardship and unable to feed their people.

There is no question, however, that the needy abroad have been hardest hit by the current squeeze on food supplies. One measure is the amount of food relief shipped by the United States.

SHIPMENTS DECLINE

As grain prices have risen, shipments under the Food for Peace program have declined. After aid in the form of wheat and wheat products had continued for many years at the level of six to seven million tons, the total dropped last fiscal year to 4.1 million. This year, such aid is expected to be no more than 1.24 million tons.

Recent experience and continuing uncertainty have generated growing support among economists for national and international systems of grain reserves, an idea that is likely to be one of the principal topics at the international conference on food scheduled for next November in Rome.

It is an idea that is strongly opposed by Secretary Butz, who has said repeatedly, "We want to keep the Government out of agriculture." In an interview, he argued that incentives for production were the best guarantee against scarcity, that the prospect of good prices was the best incentive for production and that the existence of Government stockpiles would tend to depress prices and thus reduce production incentives.

He argued that the business and costs of holding national reserves should be left to farmers and the grain companies. Foreign countries wishing to guarantee their own supplies are free to buy ahead and even store their grains in this country, he said.

Whether Dr. Butz will be able to resist the rising tide of opinion on food reserves is unclear. A majority of economists on sev-

eral panels that reported to Senator McGovern's committee recently favored Government action.

"There is no reason to believe that private holdings will even give an adequate cushion", Mr. Okum said, expressing the majority view.

Support for a national reserve came also from a panel headed by Ray A. Goldberg of Harvard University and from a vice president of Cargill, Inc., one of the major grain companies to whom Dr. Butz would leave most of the business of holding supplies. Speaking for a majority on his panel, William R. Pearce, the grain company executive, said:

"We are convinced that the need for reserves outweighs both the costs and the risks."

This is a view long held by Senator Hubert H. Humphrey, Democrat of Minnesota, who has emobodied it in proposed legislation.

Even within the Government, Dr. Butz's view appears to be in the minority. Dr. Paarlberg, along with a number of other Agriculture Department economists, favors a reserve program, and Gary L. Seevers of the Council of Economic Advisers said that he was leaning toward Government acquisition of grain stocks.

For the near future, however, the whole question remains academic. Until a bumper crop creates a wider margin between supplies and needs than is expected within the next two years, no major power can accumulate a substantial grain reserve without driving world food prices to unacceptable levels.

Thus, in the midst, of plenty, American consumers are likely for some time to live in uncertainty about both supplies and food prices.

SENATOR MATHIAS REPORTS ON THE CHESAPEAKE BAY

Mr. BEALL. Mr. President, the Chesapeake Bay is one of our Nation's greatest natural resources. It provides a livelihood for thousands of people in my State, and offers a unique recreational opportunity for literally millions of Americans who live in the Eastern United States.

However, the bay is subjected to many pressures. Located in an increasingly urbanized area, its precious wetlands and marine life must withstand the uses and abuses of more and more people. In short, government at all levels must do everything possible to protect the bay, and all that it represents.

Last summer, my distinguished Maryland colleague, Senator MATHIAS, spent 5 days touring the bay, in an effort to gain a comprehensive overview of this invaluable resource. Recently, he published a detailed report on his investigations, outlining what we have now, and what needs to be done to protect it. His report makes many substantive recommendations regarding the bay, and I hope it will be read by all who are concerned with the welfare of this unique body of water.

I commend him for his deep concern in this matter, and congratulate him on the completion of this major report. So that it might receive the widest possible attention, I ask unanimous consent that it be printed in the RECORD.

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

A CHESAPEAKE BAY REPORT: WHAT WE HAVE AND HOW WE CAN PROTECT IT

(By Charles McC. Mathias, Jr.)

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Chesapeake Bay problems arise not because of inadequate enforcement powers, but because of a lack of coordination between authorities and a failure to understand all the ramifications of the decisions which are made. Too many decisions are based on a limited view of the Bay.

PART I.—WHAT THE BAY FACES

We can expect continued pressure for residential and industrial development of the Bay. Pressures for development in navigable water and wetlands are unevenly distributed. Most of the proposed projects involve small-scale alterations in the environment. Our present knowledge of the environmental effect of these small alterations does not indicate that standing alone, any one has a significant impact. But though the individual impact may be small, in "hotspot" areas, the cumulative impact of permitted alterations may be very severe.

Government response: The present situation

Two representative permit applications have been chosen to illustrate how our system breaks down in the Port of Baltimore and in the Bay itself.

Recreation development

In most cases, all levels of government have veto power over a permit application. In theory, such elaborate review procedures should ensure a comprehensive analysis and optimum decisions. In practice, such is not the case. One central problem is that all permits are considered in a vacuum. I propose that all permits in a given locality be decided on a set date. The first step in accomplishing this is to section off the Bay shoreline. Applications for Federal and State permits for a given section would be granted, granted with modifications, or denied on a specific date. There are a number of advantages to doing this.

(a) Agencies can concentrate field studies to determine relevant capacities of the region.

(b) Agencies will have a number of applications to consider at the time permits are granted, granted with modifications, or denied, and this should improve the quality of the final decision.

(c) It will ensure that citizen resources will be marshalled efficiently, and that all who participate will understand how each individual permit relates to the larger picture.

(d) Such a system will enable each citizen requesting a permit to know what the immediate future of that particular area will be.

Certain activities would not be subject to the changes I advocate. Exempted would be repairs to existing structures, and activities undertaken by public bodies or utilities. Agencies should also determine whether certain types of projects pose such a minimal impact on the environment that they too should be exempted.

Unevaluated impact

We need to increase the sensitivity of the permit process. Boat discharges are not taken into account properly in granting permits for the construction of marinas.

1. A partial solution is possible and will serve until shipboard marine sanitary devices are improved. New marinas should be required to provide a restroom facility for every (x) number of berths. Existing marinas should be expected to provide these facilities as a condition for license renewal.

2. The agencies should declare a moratorium on marina development or expansion in those few and limited areas which currently do not meet water quality standards on a significant number of days and where boat discharges can be shown as a significant contributing factor.

More communication

We can improve the sensitivity of the permit process by talking to each other. Coordination between the Maryland Departments of Natural Resources and Health and Mental Hygiene can be improved.

1. These two agencies do not use each other's water quality testing results.

2. There is presently little attempt to compile a comprehensive overview of water quality in the Bay. What information is available needs extensive interpretation.

Land development

Sediment and bacteria runoff from upland development pollutes the Bay. It may be that traditional methods of zoning do not effectively respond to the challenges we face. There has been little discussion of the best method for properly managing development. Such a discussion should be stimulated. I would hope that the counties would review the many new ways that land can be managed to provide society's requirements.

The port of Baltimore: At a critical juncture

The Port must continue to develop. This can be done while meeting our commitments to a clean environment. The permit application of the Maryland Port Administration to build a cargo facility at Hawkins Point in the Baltimore Harbor raises three troubling questions.

1. The Fish and Wildlife Service of the Department of the Interior has used unpublished guidelines to evaluate this application. This shocking example of agency secrecy has cost the Port of Baltimore tremendous amounts of time and money. If the Fish and Wildlife Service is serious about protecting the environment, they should immediately make their guidelines public so that applicants for permits can structure their projects so as to avoid conflicts with environmental goals.

2. Baltimore was the only Port required by a Federal agency to provide a master plan. While I believe that a master plan is helpful to both State and Federal governments, Maryland should not be penalized relative to the other states. If we have to provide a master plan which must be deemed "acceptable" before improvements to the Port can be undertaken, then the other states should also. I telephoned most of the major port authorities in this country and the response to the questions I posed bears out the allegation made by officials at the Maryland Port Administration that Baltimore was being singled out.

3. The National Environmental Policy Act was passed by the Congress to ensure that all available data is properly analyzed before decisions having an effect on the environment are made. In too many cases, however, the National Environmental Policy Act is used as an apology or justification for a decision already made.

PART II

We must also provide a long-term planning and coordinating structure for the entire Bay. At the time of my trip I considered at least five possible approaches for this structure. They were:

1. An Interstate Compact.
2. Federal Gateway Legislation.
3. A Federal-State Task Force.
4. Improved coordination of existing laws.
5. Designation of a given unit of government to have primary responsibility for the Bay or a part thereof.

Now, one year later, I still believe there are advantages offered by each of these proposals. In proposing, as I will, that we go beyond the five approaches outlined previ-

ously, I in no way criticize their viability. All can, if properly implemented, be extremely useful in protecting the Bay. But none, for reasons I will detail, should be the very next step in saving the Bay.

Planning for the Bay

There are a number of important functions which any new organizations must perform.

1. It must provide an interface between State and Federal officials concerned with Bay matters and management;

2. It should encourage a unified Federal approach to the Bay and a unified State approach, but neither approach should be in a position to dominate the other;

3. It should provide greater coordination between the two states primarily concerned with Bay affairs, Maryland and Virginia;

4. It should foster thoughtful debate;

5. It should serve to translate on-going Federal efforts into terms which are politically acceptable to the respective states;

6. It should have the ability to establish advisory groups to represent the many Bay interests;

7. It should study the many new proposals for saving the Bay and make recommendations to the Federal government and the respective states concerning their merits.

The Chesapeake Bay Commission

I recommend the establishment of what has been termed a Title II Commission for the Chesapeake Bay. With adequate State and Federal funding, it can be the politically sophisticated and influential organization needed to coordinate Bay activities, foster beneficial debate, ensure that Federal plans for the Chesapeake deal with, and respond to, local concerns, and to study long-range proposals for the Bay. We do not need new laws to bring about this needed interface of State and Federal officials, but rather the governors of the States to be served by this Commission must write to the President of the United States requesting a Title II Commission for the Chesapeake Bay. The important details can be agreed upon by the parties prior to this request. Such details would include voting rights, the process by which a chairman is chosen, and the jurisdiction of the Commission. I believe the experience of other regions of the country with Title II commissions indicates that this is the proper next step to protect the Chesapeake Bay.

CHESAPEAKE BAY REPORT

In June 1973, I embarked upon a five-day tour of the Chesapeake Bay. In those five days I was able to inspect the shoreline of Maryland's portion of the Chesapeake Bay and to stop in a number of counties to confer with state and local officials.

My intention was to gain a comprehensive picture of the Bay's present condition viewed from my perspective both as a United States Senator and as a citizen of Maryland. In my five days on the Bay, I talked with a great many Marylanders, including businessmen, labor leaders, environmentalists, watermen, and boating enthusiasts. As I noted in my preliminary report in August of 1973, not only do their activities have differing impacts on the Bay, but their views of the Bay differ greatly as to priorities and concerns.

The Chesapeake Bay is an uniquely beautiful and vital asset to Maryland. There are many enriching facets to the Bay. Only a short boat ride takes a person from the bustle of the Port of Baltimore to a sleepy creek on the Chester River. Government, to be responsive to Bay concerns, must recognize the great diversity that the Chesapeake offers.

The Bay is finite. Its air, water and land are limited and interrelated. To the extent you tax one of these elements beyond its capabilities, you tax them all. Land use impacts on water and air quality and all impact on the lives of the people of Maryland. Human activities rank highest in harmful impact on the integrity of the Bay system. Natural occurrences such as Hurricane Agnes can, of course, have a significant impact, but even with Agnes the damage is significantly worsened by man's presence.

While many would hope that pressure for industrial and residential development in the Bay area would taper off, this cannot be expected for the forseeable future. So the question is not between growth and no growth, but how growth will occur. At a minimum we must ask three questions:

1. What form will growth take?

2. Is extensive random development inevitable, or are there alternatives?

3. What form might the alternatives take?

There are some general observations which highlight the importance of these questions. Development often comes slowly, the next creek, the next farm, down the road, until finally next door. While there will always be the promise of great wealth, no one-to-one relationship exists. Even more tenuous is the theory that development will in all cases improve the quality of our lives.

What is important to recognize is that each area has geologic and environmental factors limiting its own growth. Some of the areas are too dry, too wet, too exposed to flood, have poor soils, or lack some other component necessary for development. Many of the rivers and creeks of the Bay have little flushing action and water quality is a continual problem. Proper development will avoid the unsuitable areas.

My purpose in preparing this report is to express my views on how we can care for the Bay and to stimulate discussion of Bay issues with the hope that a consensus for sound policies can be developed.

At the outset, let me detail what this report does not attempt to address. While I will touch upon several aspects of water pollution, I will not attempt to analyze the basic permit system for municipal and industrial discharges, except to make two observations. First, the clean-up efforts mandated by 1972 Amendments to the Federal Water Pollution Control Act are now in full swing. Both the Environmental Protection Agency and the State Departments of Natural Resources and Health and Mental Hygiene seem to be pleased with the progress of their operations and the mutual cooperation they are experiencing. Neither have reported a need for special intervention. Second, funding levels for water clean-up continue to be a problem; a problem with two facets. The bifurcation of authority between the Departments of Natural Resources and Health and Mental Hygiene may have resulted last year in a failure to document the State's need for a number of important sewage treatment facilities and this in turn could have been one reason the State received inadequate Federal sewage funds. But what was even more devastating to our clean-up efforts was President Nixon's decision to impound $3 billion of the $7 billion mandated by Congress to be spent for construction of sewage treatment facilities. This nearly halved Maryland's share. I have protested this decision on every possible occasion, and I was pleased to learn of Maryland's recent decision to join one of the lawsuits contesting this impoundment. Since I, with other Senators, insisted on anti-impoundment language in the funding statute, I would anticipate that Maryland's position would be ultimately upheld by the courts.

Air quality is not a subject of this report. While air quality continues to be a problem, it is not particularly a Bay problem. We must always be vigilant, however, that our efforts to abate air pollution do not result in degraded water or that water quality violations are not corrected by discharging into the air.

The siting of power plants also poses a serious challenge in the years ahead. Maryland's power plant siting law is accepted by environmentalists and by industry. I commend it as a model for Federal efforts. The impact on the Bay of power facilities, while critical, is not a subject of this report.

Finally, let me add a word of caution. This report concentrates on what should be done to protect the Bay. It does not detail the many areas of the Bay which are strong and vibrant. It is still possible to enjoy unsurpassed fishing on many of the Bay's tributaries and at the same time watch ospreys wheeling in the sky. We should bear in mind that the Bay has a great capacity to protect itself.

The Resource

The region of particular concern to all of us is the 12,600 square miles encompassing the Chesapeake Bay drainage basin between the Pennsylvania and North Carolina state boundaries. Within that basin we find some 4,600 miles of tidal shoreline. This is more than five times the length of California's coast. The basin is bordered on the west by the fall line, i.e., the line separating the coastal plain from the Piedmont area extending from Baltimore through Washington to Richmond. On the east, the boundaries include the Chesapeake Bay estuarine drainages. The upper reaches of the Potomac and Susquehanna are not included. This is the same geographic area chosen for study by the Center for Natural Areas, Ecology Program, Smithsonian Institute, in an excellent report entitled, Natural Areas of the Chesapeake Bay Region.

The Chesapeake is a massive resource. Much of the shoreline has been relatively undisturbed by man, but other parts are subject to intense pressure for development. Such pressure is not surprising. Historically, people have been attracted to the shoreline of the Bay for recreational opportunity and for residency on or near the water. Industries also desire to locate on the Bay. Its waters serve as an industrial coolant, as a waste disposal system, or as a maritime transportation system. Unfortunately, many of these activities require changes in the Bay. Man has had to dredge, fill, bulkhead, construct piers, piles and jetties and discharge treated, untreated or in some cases heated effluent into the Bay. While many of these activities have contributed to our rising standard of living, they have often come at a high environmental cost.

Existing laws and regulations

Environment concern has fostered a great deal of government regulation of Bay activities. This is appropriate since the foreshore, the waters, and the submerged lands are common property and as such are impressed with a public trust. The Army Corps of Engineers must approve any construction, excavation or filling in navigable waters. Their internal regulations, the National Environmental Policy Act, and the Fish and Wildlife Coordination Act ensure that concerned Federal, State, and local officials are consulted. The Environmental Protection Agency and the State Departments of Natural Resources and Health and Mental Hygiene work together pursuant to the 1972 Amendments to the Federal Water Pollution Control Act in providing effluent limitations and water quality standards. Maryland has a sediment control law which provides dual enforcement by the State and the appropriate county. The shorelands and waters are also controlled through the exercise of zoning and public health powers by the local governments. By and large, Chesapeake Bay problems arise not because of inadequate enforcement powers, but rather because of a lack of coordination between the enforcement authorities and a failure to understand all the ramifications of the decisions which are made. Too

many decisions are based on a limited view of the Bay.

PART I. WHAT THE BAY FACES

While it is difficult to provide a definitive picture of pressure on the Bay, an analysis of Federal permit applications in navigable waters is helpful in understanding the challenges the Bay faces. Pressures for development are unevenly distributed. A study by the Chesapeake Research Consortium, entitled, Pressures on the Edges of the Chesapeake Bay—1973, published in April of 1974, indicates that 55 per cent of the applications to the Baltimore Office of the Corps of Engineers in 1973 for which data was available came from three counties. These counties are Anne Arundel, Baltimore, and Talbot. Total requests for permission to dredge, fill, or build structures in navigable waters and wetlands of the Chesapeake Bay numbered approximately 2,500 in 1973.

Several points are worth making based on the analysis of pressures on the Chesapeake Bay. Most of the proposed projects involve small scale alterations of the environment. An example would be Maryland permits for fill where 23 per cent of the applications involved a total of 94,500 cubic yards of material. The remaining 77 per cent only involved 6,190 cubic yards. Bulkheading permits fall into a similar pattern as the typical permit is for 300 feet or less. Our present knowledge of the environmental effect of these small alterations does not indicate that standing alone any one has a significant impact. What is disturbing is the uneven distribution of these alterations throughout the Bay. They are concentrated in just a few locations. In Maryland the "hotspots" are just north of Baltimore City, in Baltimore County, Kent Island, and particularly the Kent Island narrows, Anne Arundel County, the mouth of the Patuxent in Calvert and St. Mary's Counties and Talbot County. Even though the individual impact may be small, in "hotspot" areas the cumulative impact of permitted alterations may be very severe.

Government response: The present situation

We can do a better job in coping with pressures for development and ensuring that they are channeled in the proper direction. A close look at two representative permits will illustrate the weaknesses of the present system. First, a typical application for permission to expand marina facilities on an already busy tributary of the Bay. Second, the application of the Maryland Port Authority to construct a cargo loading facility at Hawkins Point in the Baltimore Harbor. In subjecting these permit applications to detailed analysis, the work of the Chesapeake Research Consortium has been most valuable. I hope to illustrate two very different types of pressures on the Bay. Each project in its own way is fairly typical in purpose, size, and design.

Recreation development

A marina permit application presents a typical interface between recreational and environmental values. My selection of a marina permit does not imply that marina applications necessarily pose greater environmental problems than other alterations. A marina application was chosen to illustrate why the existing permit process does not fully protect environmental values.

The Corps of Engineers, under authority granted to it by the River and Harbors Act of 1899, 33 U.S.C. 8401 et seq., serves as the lead Federal agency in evaluating any request to make an alteration in navigable water. Their decision must be based on whether the alteration is in the "public interest."

The Baltimore Office of the Corps of Engineers is severely understaffed in performing this evaluation role. Currently, nineteen people are authorized to handle this responsibility which entails the yearly evaluation of over 1,400 permits. Consequently, the Corps serves as little more than a clearing house for objections. The permit is circulated primarily to the EPA, the Fish and Wildlife Service of the Department of Interior and appropriate State and local agencies. In practice, any of these agencies, Federal, State, or local, have a veto power over the application. The level of citizen participation in the process varies.

In theory, such elaborate review procedures should ensure a comprehensive analysis and optimum decisions. In practice, such is not the case. In areas of the Bay north of the Bay Bridge, pollution problems are most often caused by inadequately treated municipal/industrial waste and storm water runoff. Below the Bridge, the main rivers of the Bay are primarily degraded by storm water runoff and septic tank overflows. Municipal and industrial sewage play a lesser role except in certain key areas. But in the small tributaries where marinas are often sited, boats are a significant factor in degrading water quality.

The sewage, oil and rubbish discharged from boats combines with sediment and bacteria from storm water runoff to create severe pollution problems. What does this mean? While this does not mean that we should ban all marinas, it does indicate that siting marinas in certain areas is unwise. Too often, the creek or river to which the alteration is proposed will be narrow at its mouth, and quite shallow throughout. Such an area should be avoided because there will be little flushing action from the tide. Certainly this is true of parts of the Severn, Magothy, Back, and Middle Rivers. Recent statements by the Queen Annes County Commissioners indicate that the problem is particularly severe in the Kent Island Narrows area. Quite often these waterways receive less than a 1% increase in volume of water during high tide. This is a very small exchange of water between the Bay and the tributary. Runoff caused by development and a heavy boat population will have a measurable effect on water quality.

Many of these waters are classified for Class II water use by the State Department of Natural Resources. A classification which should permit shellfish harvesting and other similar activities. This is a "use" classification, which the people of Maryland have a right to expect. Unfortunately, a number of the Bay tributaries cannot now approach this criteria. Yet we continue to grant permit applications in waters which presently fail to meet water quality criteria on many days of the year. This raises the question as to whether we are pursuing policies which will bring these areas up to an acceptable level of water quality. The answer at this time is no. The solution comes in a number of parts.

A new permit system

The first part relates to the fact that each permit is considered in a vacuum. Generally, any relevant land and water plans promulgated by the State, county or municipality are either too general or out of date. Since each permit is reviewed and judged without an analysis of its relationship to other applications or to a viable master plan, no comprehensive picture emerges. The system stumbles forward reacting to permit applications without ever determining what represents a maximum or optimum level of development.

Changes should be made in the permit process to insure that better decisions are made and particularly that the incremental effects of shoreline alteration are understood. I propose that all permits in a given locality be decided on a set date. The first step in accomplishing this is to section off the Bay shoreline. Applications for Federal and State permits for a given section would be granted, granted with modifications, or denied on a specific date.

Applications in a particular section of the Bay would be submitted to the agencies a set time prior to the designated decision day. The submission date would precede the decision date sufficiently to provide an opportunity for review of these applications. A six month time period would seem adequate. Agency regulations would strictly govern what modifications in the application would be in order following the submission date. Each section of the Bay would come up for review periodically. The considerations in deciding how frequently to accept permit applications for review would be the inconvenience that a time delay would mean to applicants versus the benefits of being able to focus on all permits affecting one area at one time.

I feel strongly that clustering permits in this fashion will yield significant benefits. The benefits would be as follows:

1. Agencies can concentrate field studies to determine the relevant capacities of the region. Studies would be focused on the next section or sections up for review. At present, research efforts are dissipated through a lack of focus as agencies are now required to continually study the entire Bay since an application can come from any part of the Bay at any time.

2. The Agency will have a number of applications before it as the time permits are granted, granted with modifications or denied and this should improve the quality of the final decisions. Studies can be made of the cumulative effects of granting all the applications and should these effects be considered excessive, permits can be scaled down on a pro rata basis or denied entirely. Such a system will force the administrative review process to be exhaustive and equitable.

3. Concerned citizens are now unable to effectively express their views or have a part in shaping decisions. The efforts of environmental and community groups are severely dissipated by the present random permit procedure. One morning there may be an important wetlands hearing in Cecil County, Maryland, and that evening another equally important hearing in York County, Virginia. Certainly such circumstances prevent an effective presentation of views. The changes I recommend will ensure that citizen resources can be marshalled efficiently and that all who participate will understand how each individual permit relates to the larger picture. There will be chance of receiving an agency response to an often asked question, "How does this action today relate to our goals for tomorrow?"

4. Such a system will enable each citizen requesting a permit to know what the future of that particular area will be. An applicant would be able to gain some idea of how many other marinas or other developments will be constructed in that area in the immediate future. Furthermore, projects of any size are usually a long time in the planning and financing stages and therefore the new permit process will not pose a significant problem.

Activities not covered

Certain activities would not be subject to the changes I advocate. Exempted would be repairs to existing structures and activities undertaken by public bodies or utilities. The agencies should also determine whether certain types of projects pose a minimal impact on the environment that they too should be exempted. All these alterations would, of course, be subject to all other laws and regulations. Repairs to existing structures generally have little impact on the environment and therefore should not be delayed. The activities of public bodies and utilities often have a great impact on large numbers of

people. These large numbers of people stimulate the review process to function effectively. Agencies receive sufficient information for decisions. Finally, it is not in the public interest to delay projects of such great importance until the next cycle for that particular section of shorefront.

Unevaluated impacts

A new permit process will not be a complete solution. Agencies must also evaluate factors which at present are largely unevaluated. So, the second part will involve increasing the sensitivity of the permit process. The boat which is attracted to a marina is unevaluated. To control municipal waste, we are building treatment facilities; to control industrial discharges we require adherence to effluent standards, to control sedimentation we are now beginning to require effective sediment control plans, but our control of boat discharges is less effective.

The Chesapeake Bay usually has a large population aboard various types of ships. It is estimated that the sewage discharged from all vessels in the Chesapeake Bay is roughly equivalent to that from a city of 20,000 people in terms of its overall impact on the oxygen nutrient budget of the Bay. This would not be of overwhelming concern if spread evenly across the Bay, but it is serious because vessels are most often relatively concentrated at places such as marinas or ship anchorages. If these areas are close to bathing beaches or shell fish harvesting areas, serious health problems may result from the overboard disposal of sewage. There are no meaningful prohibitions on the discharge of human wastes from boats. Even though the Coast Guard has recently promulgated regulations pursuant to Section 312(h) of the 1972 Amendments to the Federal Water Pollution Control Act, I have doubts that these regulations will abate the problem in an acceptable or effective manner. Until we do have a workable system for boat discharges, untreated waste will continue to pour into the Bay and its tributaries. But a partial solution is possible and will serve until marine sanitary devices are improved. Marinas should be required to provide a rest room facility for every (x) number of berths. New permits should not be granted without this requirement and existing marinas should be expected to provide these facilities as a condition of license renewal. It should be further required that the rest rooms be kept sanitary at all times, and that there be no discharges into the waters surrounding the marina. These changes should reduce discharges in the confined tributaries of the Bay where water quality is a particular problem.

The Maryland Department of Natural Resources, the Corps of Engineers, the Department of the Interior, and the Environmental Protection Agency, should consider a further alternative for controlling discharges from boats. This would be to declare a moratorium on marina development or expansion in those few and limited areas which currently do not meet water quality standards on a significant number of days and where boat discharges can be shown as a significant contributing factor. Data furnished to me by the Maryland Department of Natural Resources, the Department of Health and Mental Hygiene and the Annapolis Office of the EPA, indicates that boats may have a measurable impact in confined areas, but that more research is needed on a high priority basis.

More communication

We can improve the sensitivity of the permit process by talking to each other. Coordination between the Departments of Natural Resources and the Department of Health and Mental Hygiene could be improved. The Department of Health and Mental Hygiene takes between 25,000 and 30,000 water samples per year. This work is done pursuant to their public health responsibilities for shell fish and bathing beaches. Sampling takes place in such areas on a continuing basis and is designed to obtain counts of fecal coliform and total coliform. The Department of Natural Resources, with responsibilities to protect the environment, samples in other areas and is concerned with a broader range of water quality indices. But the results of these programs have not been meshed, though in June of 1974, the Department of Health and Mental Hygiene for the first time sent its testing results in the form of a computer tape to the Department of Natural Resources. The Department of Natural Resources grants permit applications for alterations of the environment which have demonstrable effect on both fecal and total coliform counts without studying results obtained by the Department of Health and Mental Hygiene of the alteration site. No wonder many of our shellfish beds must be closed with an annual loss estimated at over $1 million.

In a broader sense, there is presently little attempt to compile a comprehensive overview of water quality in the Bay. The necessary information is found in a number of different locations and is in a form which is not only cumbersome, but meaningless without extensive interpretation. Possibly an annual report to the Governor and the General Assembly would be helpful in ensuring that proper coordination and oversight takes place.

Land development

Also largely unevaluated is sediment and bacteria runoff from upland development, which is in part spurred by the presence of recreational facilities such as marinas. This problem has a significant impact on the Bay and must be addressed by the Department of Natural Resources through its sediment control program and by the counties through their sediment control programs and zoning ordinances. We need to look not only at the severe sediment and bacteria runoff that comes during the construction stage of development, but also at the runoff that occurs long after construction is completed.

Sediment holding ponds may deal with the construction phase, but more fundamental changes are required to reduce the long term problem. The recent controversy over the future of Wye Island raises an important question. Three and five acre zoning, while laudable in its environmental purpose, may have outlived its usefulness. In setting study targets for the Bay, a high priority must be the question of what is the best land management approach. It is possible that traditional zoning wastes too much land and pushes development further and further out into the countryside, forcing counties to pay additional costs associated with providing more sewer, electric, water and other facilities. On the other hand, we should determine whether strict planned unit development (PUD) ordinances really will encourage more open space conservation and efficient siting of community facilities as its proponents claim. Certainly, we have to consider whether it is necessary for the State or counties to require shoreline setbacks and vegetation buffer zones to halt water runoff. Nothing could be worse than to eventually have the Bay ringed by development with no thought for proper planning.

There has been little discussion of what is the best method for properly responding to development. Such a discussion should be stimulated. I would hope that the counties would review the many new ways land can be managed to provide society's requirements.

The Port of Baltimore: At a critical juncture

Hawkins Point lies within the boundaries of the Port of Baltimore. The Port itself is one of the prime cargo centers of the United States. In my opinion, the activities of the Port represent the State of Maryland's most important economic asset. Primary and secondary employment attributable to the Port would appear to be on the order of 155,000 jobs.

I endorse the concept of concentrating heavy industry and development in one location, providing that the location is suitable. Geologic, historic and environmental considerations make Baltimore a most appropriate focal point for these activities. I believe there is a consensus in the State of Maryland that the Baltimore Harbor should continue to develop. But its pollution must be better controlled. This will require a tremendous commitment at all levels of government and in the private sector. In the end, the results will be worthwhile.

Baltimore's municipal and industrial waste can be a great threat to the Bay. We must ensure that harbor pollution is not permitted to spill out into the main stem of the Bay. This will require careful and continual monitoring of the mixing zone between these bodies of water. But it is unrealistic to think we will ever harvest shell fish again in this area. A beneficial effect of being development-oriented in the Baltimore Harbor is that it will tend to deflect the development pressure away from the relatively untouched parts of the Bay where development is inappropriate.

The Port of Baltimore is at a critical juncture. Problems with Federal agencies are significant.

Hawkins Point

The application by the Maryland Port Administration to build a cargo unloading facility at Hawkins Point typifies the difficulties that have been encountered in the Port generally. I have been intimately involved with many aspects of the Hawkins Point proposal for the last year. I have met repeatedly with officials of the Port and with representatives of the Federal agencies involved in the licensing procedures. Concern for this problem led to my suggestion to the Chesapeake Research Consortium that they undertake a case study of this permit application. They applied to the National Science Foundation for the funding necessary to undertake this work, and I was pleased to support that successful application. Over the past months I believe both the Consortium and my office have benefited by a constant exchange of information on this subject. The Consortium's Wetland/Edges Program has recently completed a draft case study, and I will draw at times upon this work in criticizing the way the Federal government has treated the Port of Baltimore.

Background of the Maryland Port Administration Application

On April 28, 1972, the Maryland Port Administration applied to the Baltimore Office of the Army Corps of Engineers for a permit to build a cargo unloading facility on the west shore of the Patapsco River at Thoms Cove—well within the boundaries of the Baltimore Harbor. Application was also made to the Maryland Department of Natural Resources, which approved the application with certain conditions.

The Corps referred the application to the Fish and Wildlife Service. Fish and Wildlife recommended denial of the permit on November 1, 1972, on the grounds that it would destroy a valuable fish and wildlife habitat. Suffice it to say that this contention has been strenuously disputed by the Maryland Port Administration and by scientists in the State of Maryland. Their opinion is that the area is now degraded to the point where it does not support significant fish or wildlife populations. The Fish and Wildlife Service has been just as vigorous in its rebuttal to these charges.

I requested the Maryland Port Administration to prepare a detailed analysis of the situation and in January, 1974, I personally submitted this brief to the Chief of Engi-

neers and the Secretary of the Interior in an effort to break the logjam. In a letter to me on May 15, 1974, the Fish and Wildlife Service responded to the allegations made in that brief. These materials are, of course, available for review. While it is beyond my expertise to resolve the scientific issues presented, I do recommend the soon to be published analysis of the Chesapeake Research Consortium on this subject.

What emerges very clearly, however, is overwhelming evidence of a communications breakdown between the Department of the Interior and the Maryland Port Administration. This is indicated by the tone of these two documents, and is profoundly disturbing.

Issues facing the port

The fundamental issue which goes beyond the merits of Hawkins Point to touch all other projects in the Port is whether the Baltimore Harbor is being treated fairly. I have concluded that in two respects the Port is not treated fairly.

Secret guidelines

My first objection relates to guidelines which the Fish and Wildlife Service uses in determining what position to adopt on individual permit applications. The Southeast Region of the Fish and Wildlife Service prepared these guidelines in October of 1971. Information I have received indicates that they came into general use by all regions shortly thereafter. But stamped on the front page of the guidelines is "preliminary draft—not for public release."

It has been nearly three years since the guidelines were first drafted and yet they are still unavailable. While I did obtain a copy and immediately made it available to the Maryland Port Administration and the Chesapeake Research Consortium, this copy was not received through normal channels or in response to my repeated requests of the Department of the Interior. The Port Administration did not receive a copy of the guidelines in time to base their planning of the Hawkins Point project upon it and I am convinced that this shocking example of agency secrecy has cost the Port of Baltimore tremendous amounts of time and money. I express no objection to the context of the guidelines, when I say that if the Fish and Wildlife Service is serious about protecting the environment they should immediately make their guidelines public so that applicants for permits can structure their projects so as to avoid conflict with environmental goals.

A master plan

My second objection relates to the master plan now required of the Port of Baltimore. A major reason for Fish and Wildlife Service opposition to the original Hawkins Point proposal (a new plan is now submitted and being reviewed) was the absence of a master plan for the Port of Baltimore. The need for such a plan is clear. On April 1, 1973, the Maryland Port Administration prepared and filed a plan, but it was judged unacceptable because they had failed to involve a sufficient number of other planning agencies in the process. Our Regional Planning Council was then given the responsibility for preparing a new plan with the Fish and Wildlife Service, agreeing to consider individual permits in the interim.

Officials of the Maryland Port Administration alleged to me that Baltimore was the only port required to provide a master plan. Since our Port is in direct competition with many other Ports for cargo and since jobs and livelihoods depend on winning that competition, I decided to investigate. My bias is that a master plan is helpful to both the State and Federal governments, but that Maryland should not be penalized relative to the other states. If we have to provide a master plan which must be deemed "acceptable" before improvements to the Port can be undertaken, then the other states should also.

I telephoned and wrote most of the major port authorities in this country and the response to the questions I posed bears out the allegation made by officials of the Maryland Port Administration that Baltimore is being singled out. Approximately one-half have prepared what they describe as a master plan.

I wonder how many of these could have withstood the test which disqualified the Baltimore Plan. The rest are either preparing one now on their own initiative or have no intention to prepare one. I did not receive one report indicating that a master plan had been prepared at the request of a Federal agency. Some ports indicated that a copy of their master plan had never been sent to a Federal agency, others that the Corps alone had asked to receive it; none indicated that the Fish and Wildlife Service had shown any interest whatsoever. In fact, the Port of San Francisco reported no contact whatsoever with the Department of the Interior on any of these matters. Of greatest concern to us in Maryland is that none of the Virginia ports, nor those on the Delaware Bay or River, are currently required to provide master plans. Due to the competition among ports, a uniform national policy is certainly called for and should be quickly implemented by the Department of Interior.

My final objection does not relate to whether Baltimore is being treated unfairly, but rather to whether the regulatory process is being properly conducted. Unlike small scale development of the Bay, large public or private undertakings like Hawkins Point stimulate considerable analysis and debate and generally there is sufficient data on which to base decisions. The National Environmental Policy Act was enacted to ensure that this information would be properly analyzed. The Act requires that when the District Engineer feels that a project will have "a significant effect on the environment" he should initiate the environmental impact statement process. The debate which has enveloped the permit application for Hawkins Point should have signaled the Corps to prepare an EIS. Now that agreement on a new plan for Hawkins Point is close at hand, it would be tragic and ironic if the process were open to legal challenge because of a failure to comply with NEPA.

Summary of recommendations for the port

I am convinced that decisions on major public projects would be greatly expedited and improved by taking the following steps:

1. Publishing all guidelines for permit applications;

2. Providing a uniform national policy requiring master plans in port areas; and

3. Using the National Environmental Policy Act to make the right decisions rather than as an apology or justification for a decision already made.

While the needs for recommendations (1) and (3) are most evident in the Port of Baltimore, these recommendations should be applied to other areas of the Bay as well.

PART II

Part I of this Report emphasizes a number of immediate problems which the Bay faces and outlines the changes that are needed to cope with these problems. All can be implemented through new regulations issued by either the Corps of Engineers or the Maryland Department of Natural Resources. Part II of this Report will concentrate on the question of a long-term planning and coordinating structure for the entire Bay.

My preliminary Report of August, 1973, was primarily focused on the proper structure for dealing with the entire Bay. Such a structure must necessarily include the State of Virginia, and possibly the State of Delaware.

At the time of my trip I considered at least five possible approaches for this structure. They were:

1. An interstate compact, similar to compacts created for the Potomac and the Susquehanna Rivers;

2. Federal "Gateway" legislation similar to that enacted to protect San Francisco Bay and New York Harbor;

3. A Federal-State task force, or series of task forces that would serve in an advisory and coordinating capacity;

4. Improved coordination of the existing framework of Federal laws concerned with navigable waters; and

5. Designation of the states or localities involved as the governmental unit with principal responsibility and authority for the protection and enhancement of the Bay.

Now, one year later, I still believe there are advantages offered by each of these proposals. In proposing, as I will, that we go beyond the five approaches outlined previously, I in no way criticize their viability. All can, if properly implemented, be extremely useful in protecting the Bay. But none, for reasons I will detail, should be the very next step in saving the Bay.

Let me review each of the original five proposals by way of explaining the necessity for a new approach.

A Chesapeake Compact

Interstate compacts have been forged on the Susquehanna and Potomac Rivers. Compacts are also found in other parts of the country. Congressman Bauman, whose district encompasses much of Maryland's Bay country, has recently introduced legislation in the House of Representatives which would confer prior Congressional consent to negotiations between the states of Virginia, Maryland and Delaware to create an interstate compact for the Chesapeake Bay. I am supportive of the Congressman's action because I think it points in the right direction. The states should have an opportunity to explore the possibility of creating such a framework for the Bay. But we should not be blind to the lengthy bargaining process which creating a compact normally entails. It would be foolish to raise our hopes too high for an effective compact in the immediate future. The central tenet for creating such an organization is a strong consensus in all the participating states that identified problems can best be solved through a compact. From surveys that I have conducted in Maryland and Virginia, it is apparent that such a consensus does not exist at the present time. It is necessary, therefore, to find less comprehensive approaches that may help develop the Bay in the meantime. Just as we have to learn to walk before we can run; so we cannot expect a compact to rise from the Bay in whole cloth without extensive preparation.

Federal Gateway Legislation

The concept is that, under a law passed by Congress, all Federal lands within a region like the Bay are coordinated by one special Federal body to maximize their value as recreation spots for all people. Such legislation has met with success in San Francisco Bay and the New York Harbor. A similar program must be a top priority in the years ahead for the Bay. Yet the "Gateway" concept does not respond to the overall management concerns of the Bay. At present there are 581,430 acres devoted to public use in the Chesapeake Bay. This figure includes Federal military reservations, National Wildlife Refuges, and other Federal lands, as well as state forests, parks and wildlife management areas. Topographic maps show that much of the military land is undeveloped forest, marsh, and shoreline. Nine of the 43 reservations and installations contain, or are directly adjacent to, sites which the Smithsonian Institution

Study, which referred to in Part I, determined to be valuable natural areas.

It is quite possible that the military needs for certain of these areas will diminish in the years ahead, and I urge that periodic reviews be undertaken to see what lands can be added to a park system. I also urge that thought be given to providing a unified management approach to such Federal lands. A "Gateway" system could link the Chesapeake's magnificant parks and wildlife refuges, scenic rivers, beaches, forests and bays, as well as historic areas such as St. Mary's City, which is now being restored. By providing a unified approach we can show the best of what we have; all within a day's drive of the major population centers of the East Coast. If there were careful controls over the type of facilities constructed to serve the visitors, it would help preserve the Bay.

As important as Federal "Gateway" legislation is, however, it does not respond to the great majority of the land in the Chesapeake Bay region since private ownership predominates over public. For this reason, Federal "Gateway" legislation should be considered as a subpart of a broader organization to manage the Bay.

FEDERAL-STATE TASK FORCE

A Federal-State task force provides the interface between state and Federal officials which so many informed people consider essential. Unfortunately, the ad hoc nature of task forces severely limits their ability to provide solutions. My experience in government has led me to conclude that temporary advisory groups, no matter how well qualified, are unable to provide the continuing and comprehensive input necessary for sound decisions. The many who responded to my questionnaire on the subject of Bay management express concern that task forces would just add one further overlay without clear responsibility or capacity to plan or advise.

Improving existing laws

While the need for improved coordination of the existing framework of Federal laws concerned with the Bay is clearly documented in Part I of this Report, the vehicle usually suggested for accomplishing this purpose cannot be considered appropriate for overall management responsibility of the Chesapeake Bay. Federal regional councils are interagency committees created by executive order. They were started on an experimental basis in four places in 1968 and were soon extended by President Nixon to the rest of the country.

As of 1973, there are ten of them, one for each of the ten standard Federal administrative regions. Ours is in Philadelphia. The councils are composed of the top regional officials of the major domestic agencies of the Federal government. They are exclusively a forum for coordination and for developing coordination strategies. While I think it would certainly be desirable for the Federal government to coordinate its approach to the Chesapeake Bay, the greatest benefits of such coordination are lost in the absence of input from the State agencies. The Federal regional council system does not provide membership for state officials. Under these circumstances I believe it would be unwise to rely on the Regional Council for solutions to Bay problems.

Designating a governmental unit

It is also suggested that the states or localities be designated with primary responsibility to cope with Bay problems within their jurisdiction. This proposal responds to the confusion caused by overlapping jurisdictions. Sometimes as many as four levels of government are involved in a solution to any one problem, leading to a tremendous waste of time and resources. Unfortunately, the mix of management responsibilities on the Bay makes it impractical to think of designating just one unit of government to exercise sole responsibility over a geographic area. This does not mean that efforts should not be directed to alleviating the confusion which results from having so many levels of government involved in final decisions. But we must accept the existence of different levels of government and work towards giving their functions meaning, definition, and clarity.

Planning for the Bay

There are a number of important functions which any new organization must perform.

1. It must provide an interface between state and Federal officials concerned with Bay management;

2. It should encourage a unified Federal approach to the Bay and a unified state approach, but neither approach should be in a position to dominate the other;

3. It should provide greater coordination between the two states primarily concerned with Bay affairs, Maryland and Virginia. In this regard, it should ensure that priorities for research are established, that plans to coordinate research are formulated, and that a free flow of information is engendered;

4. It should foster thoughtful debate. Currently, the Bay suffers because too few people are informed enough to care. While scientists communicate frequently and well on Bay problems, their debate does not involve those who are not professionally involved with the Bay. Simply stated, more citizen participation is needed if the Bay is to be saved. I believe that we need a new organization—politically sophisticated and powerful—to stimulate such a broad debate on Bay matters in Maryland and Virginia;

5. It should serve to translate ongoing Federal efforts into terms which are politically acceptable to the respective states. The Corps of Engineers is currently preparing a Chesapeake Bay Study and is constructing the hydraulic model to duplicate the Bay system. Authority for this work is contained in Section 312 of the River and Harbors Act of 1965, adopted on October 27, 1965, with my support. I have followed closely the Corps' progress, on both the Chesapeake Bay Study and the construction of the hydraulic model, which is now 90 per cent completed, and I have fought to continue full appropriations for these measures. Both are proceeding well. But I am concerned that no matter how excellent the Corps study turns out to be, an institutional problem will prevent its full acceptance and implementation. The Corps of Engineers, while a highly professional planning agency, is a Federal agency. No amount of consultation with state agencies local government, or private citizens, can change that fact. I worry that the Chesapeake Bay Study may guide only the Corps of Engineers and possibly other Federal agencies. There is no reason to waste the money and effort that has gone into what I anticipate to be an excellent Chesapeake Bay Study. We need an organization which can translate the Corps' Chesapeake Bay Study into proposals which are meaningful to the Maryland and Virginia Governors, and regulatory agencies. This work can best be done by an organization combining Federal and State representatives.

6. Such an organization should be able to establish advisory groups to represent the many Bay interests. I would expect that counties and local communities would find this an appropriate and effective means of communicating their views. This would also be a good way for the scientific community to be heard.

7. As I indicated earlier, there is much to recommend other proposals for the Bay, including proposals for an interstate compact and for "Gateway" legislation. There are also many important concepts to be discussed, including novel methods for managing the use of upland areas. All these tasks require a significant education process before the proposals can receive the attention and support they may deserve. It should be the function of this new organization to study and stimulate discussion of such proposals and to make recommendations to the Federal government and to the respective states concerning their merits.

The Chesapeake Bay Commission

I recommend the establishment of what has been termed a Title II Commission for the Chesapeake Bay. Such a Commission would be created pursuant to Title II of the Water Resources Planning Act of 1965. It would be designed to bring together representatives of the states and Federal agencies with an interest in the Chesapeake Bay. With adequate state and Federal funding it can be the politically sophisticated and influential organization needed to coordinate Bay activities, foster beneficial debate, ensure that Federal plans for the Chesapeake deal with, and respond to, local concerns and to study long-range proposals for the Bay.

Federal members would be appointed from and represent their Department. Each state member would be appointed to the laws of the individual state. While no member is compelled by the others to sacrifice the goals or interests of his state government or Federal agency, presently existing commissions have usually operated by consensus. The Water Resources Planning Act presumes that the commissions will be forums for adjusting government and agency interests rather than independent decisionmakers for their regions. In this respect they differ from interstate compacts. The Commission should be not only an agency for the coordination of plans, but it would also prepare and keep up to date a comprehensive, coordinated, joint plan for development of water and related resources. In emphasizing that no government is committed to carrying out a commission plan, it should be understood that the commissions are representative, and it is reasonable to expect that their plans would prove politically acceptable to the legislatures.

This statutory foundation for state participation in what has previously been solely Federal planning by the Corps of Engineers will be a great step forward.

The Commission would have an independent—that is, Presidentially appointed—chairman, who would appoint and supervise the commission staff. Federal appropriations of up to $750,000 per year are authorized. The Federal government would be prepared to match state contributions.

Who serves on the commission and how does it operate?

The Commission functions as follows. Federal agencies concerned with environmental quality in the Chesapeake Bay would be members of the Commission. This might include the Environmental Protection Agency, the Department of the Interior, the Corps of Engineers, and the Department of Commerce. Other agencies can be designated as observers. Joining the Federal agencies as members of the Commission would be Maryland, Virginia, and possibly Delaware. Each of these states would appoint one representative and an alternate. Both would have the right to participate in meetings. As previously stated, the Commission would have an independent—that is, presidentially appointed—chairman, who would appoint and supervise the Commission staff. His salary would be entirely paid by the Federal government. The states would appoint from among themselves a vice-chairman. It would be the responsibility of the chairman to see that the Commission functions. He would also express the majority Federal view. The vice-chairman would express the views of the states. Should there be unanimity, action would be taken. In the event that agreement cannot be reached, the chairman and vice-chairman

are authorized to set forth their differing views. While a consensus is often valuable, it can at times be just as important to highlight where differences exist and stimulate debate on the best course of action to be followed. Representatives from the Susquehanna Compact and from the Interstate Commission on the Potomac River Basin would be included as observers at Commission meetings.

Performance of other commissions

There are now seven Title II commissions. Because many of New England's environmental problems are similar to Chesapeake Bay problems, the performance of the New England River Basin Commission is a good yardstick for judging what to expect of a Commission in the Chesapeake. The governors of New England are unanimous in their view that the New England Commission has been most worthwhile. I believe their experience argues strongly for a similar institution on the Chesapeake. Floods struck southern New England in the spring of 1968, not long after the Commission was organized, and the Corps of Engineers was ordered to make a study of flood control, particularly in the Rhode Island area. Upon reflection, it was decided that the Commission was the most appropriate entity to manage the study. The Commission had a technical staff capable of controlling the design of these studies, dominating the study apparatus, and monitoring specific study elements. State and local input was much greater than in most Corps studies, and a good result is expected.

The Commission has also embarked upon an ambitious study of Long Island Sound and interim reports have stimulated a great deal of discussion and public participation. Parallels to the Chesapeake Bay are particularly striking in this undertaking. Yet possibly the most noteworthy project of the Commission has been to work with the Massachusetts Institute of Technology on the effects of offshore oil drilling in New England. The work done by the Commission and MIT served as the core for the later excellent study by the Council on Environmental Quality on the environmental effects of drilling for offshore oil on the entire east coast and the Gulf of Alaska. In fact, researchers at MIT, because of their previous experience with the New England study, were chosen to do the CEQ study. As a member of the National Ocean Policy Study, I chaired hearings which reviewed both these undertakings. I found the New England effort most impressive. Think for a moment if there had been no CEQ study, New England would have been well prepared to make rational judgments concerning offshore oil development because they had commissioned their own study, but Maryland, Virginia, and Delaware would have been completely unprepared. New England has relied upon the New England River Basin Commission to give it the necessary regional view, something the Chesapeake Bay region now lacks.

How to form a Title II commission

Title II commissions have been formed in a number of areas of the country, but for some reason they have received little notice in the Chesapeake. I hope that my recommendation will lead to a full discussion of the management needs of the Chesapeake and I am confident that such a discussion will lead many to conclude that Title II commissions represent a good vehicle for protecting the Bay. I was pleased to note that the Citizens Council for a Clean Potomac expressed support for Title II commissions as a means of safeguarding the Chesapeake. Specifically, they call for serious consideration to be given to alternatives to the proposed Potomac Compact and they particularly emphasized the possibility of creating a Central Atlantic River Basins Commission under Title II of the Water Resources Planning Act of 1965 for the Potomac Estuary and Chesapeake Bay. A report of their action can be found in Volume 30 No. 5, of the Potomac Basin Reporter, Published by the Interstate Commission on the Potomac River Basin.

No new legislation is needed from the Congress to create a Title II commission. All that is necessary is that the governors of the states to be served by such a commission write the President of the United States requesting the establishment of a Title II commission for the Chesapeake Bay. Important details can be agreed upon between the parties prior to this request. Agreement should cover voting rights, the process by which a chairman is chosen, and the jurisdiction of the Commission.

I call upon Governor Marvin Mandel of Maryland and Governor Mills Godwin of Virginia to explore the possibilities of creating such a Commission. My office will always be available to them in their efforts to ascertain whether a Commission should be established. I hope that they will commit the staff resources necessary for a proper review. As thinking develops, the possibility of varying degrees of participation by the District of Columbia, West Virginia, Pennsylvania, and Delaware can be considered.

The Bay is surprisingly healthy considering the care we give it. For the most part, our wetlands are not filled, our fisheries remain, though diminished, and wildlife, from the Canada goose to the smallest life form in the Bay waters, still flourish. Unfortunately, we often take the time to care too late. I hope that the Bay is worth saving when we get around to doing it.

THE WORK OF MOTHER TERESA

Mr. HUMPHREY. Mr. President, yesterday I had the privilege of meeting with Sister Teresa, who has been working to save the very poorest in India. Her order, the Missionaries of Charity, now operates in 54 cities and 4 continents around the world.

Today, she appeared and spoke on behalf of the world's poor at hearings by the Senate Foreign Relations Committee on the world food resolution, Senate Resolution 329.

This wonderful woman embodies the best in Christian life and humanitarian ideals.

Mr. President, articles on Sister Teresa and her work appeared in the July 6 and 10 issues of the Washington Star-News. I ask unanimous consent that the articles be printed in the RECORD.

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

[From the Washington Star-News, July 6, 1974]

NUN CALLED MODERN-DAY SAINT

(By Genevieve de Chellis)

Special to the Star-News

Those of us who are strong and active this morning, those of us who stride confidently in the unconscious arrogance of youth, of health and success, can we promise that tonight we will not be helpless, in pain or near death? We can only hope that at such a moment we find at our side the kind of compassion that a remarkable woman known as Mother Teresa has come to symbolize.

She is small of stature, she is penniless. She is neither young nor pretty. She is also great and spiritually wealthy. She has a beauty that is ageless.

In this day of impersonal technology, of military conflict, of both moral and spiritual confusion, Mother Teresa is a woman who brings her very simple message to Washington next week, one of love and concern for her children—the poor of the world. She will speak to two ecumenical groups—to all who share her concern—on July 9 at 8:30 p.m. at St. Matthew's Cathedral and the following evening at 8:30 p.m. at the National Presbyterian Church. She also will discuss the world food crisis with key members of Congress.

This woman, who has never been a mother in the physical sense, is known precisely because of her countless children, each of whom she loves with the selfless love of a mother, especially the littlest, the weakest and those most in need.

The littlest, not only unwanted babies and orphans, but the small, the insignificant, those who may be less than insignificant, too often a living reproach, better removed from uneasy eyes. The sick, the infirm, those of failing mind, the hungry, the helpless, those whose lives have lost meaning and usefulness in the eyes of the world. Those who literally have no place to die.

It was in 1952 that the Indian government gave Mother Teresa an old abandoned Hindu temple to which she and her nuns began to bring the disease-ridden outcasts they found dying in the gutters of Calcutta.

"What exactly do you do for them?" Malcolm Muggeridge asked Mother Teresa when he and a BBC camera crew came to Calcutta to do a TV documentary about her work.

"We want them to know that they are wanted," she explained. "We want them to know there are people who really love them, who really want them, at least for the few hours they have to live."

This is Mother Teresa's message to today's increasingly depersonalized and computerized society. Faith in the spiritual value of the human being, in the sacredness of each life, in the redeeming value of suffering, in the all-healing power of love. Of some 30,000 people brought from the streets of Calcutta to Mother Teresa's House of the Dying, more than half have recovered. Many are now able to work again. Currently she has 12 such houses "for the dying" and the results are the same.

The Albanian nun was a teenager barely 17, when she left her home for the missions in India. More than 20 years later, in 1948, in answer to an impelling interior call, she asked permission to leave her order and to devote herself exclusively to the care of the poor in India's slums. It was thus that she founded the order of the Missionaries of Charity who have since spread to four continents.

Her nuns treat half a million patients a year in 125 dispensaries around the world and maintain centers for the poor as well as nursing homes. When Mother Teresa is asked about her work in Harlem, she has been known to point out that hunger for love hurts as deeply as the hunger for bread.

The frail, 64-year-old woman in the white and blue sari was given an $85,000 foundation gift last year by Britain's Prince Philip. The government of India presented the Nehru Award and a citation praising her work for lepers and the Joseph Kennedy Foundation handed her $15,000 to help her sisters' work with the retarded.

Mother Teresa's order, which now numbers 800 nuns, speaks well for the spiritual fiber of today's young. Prospective members are offered a lifetime of stark poverty, of hard work in squalid surroundings, of ceaseless prayer from which to draw strength. They must own nothing, they must share the food and the living quarter's of the very poor in whom Mother Teresa sees "Christ, the poorest of the poor." Yet women from every part of the world continue to ask to be admitted.

"Their life is tough and austere by worldly

standards," says British writer Muggeridge, "yet, I have never met such delightful, happy women, or such an atmosphere of joy as they create."

Mother Teresa who will be a guest on the "Today" show July 8 on WRC-4 has been referred to by Barbara Walters—as well as Pope Paul—as a modernday saint.

[From the Washington Star-News, July 10, 1974]

MOTHER TERESA'S GIFT IS AS A SEEKER OF GIFTS

(By Ruth Dean)

A saint came to town yesterday—Mother Teresa, founder of the Missionaries of Charity. A real modern-day saint to many because of the far-reaching effects of her ministry to awaken the world's consciousness to compassion for the poor.

She is penniless, by choice, but infinitely rich in an inner spirit that radiates from her small blue-bordered white habit, a humble person with a smile that seems to say "I love you" and deepest eyes that darken with intensity when she speaks in her soft, low voice about the need for people to love each other more.

Her concern for the poor and the dying, the neglected and forgotten in India's slums, in the past quarter century has etched gentle lines in a face that shows the rugged strength of her Albanian peasant forbears.

Yesterday she had a Kissinger-like schedule climaxed last night by an address in crowded St. Matthew's Cathedral. But she still found time for a quiet interview en route to an appointment with Hubert H. Humphrey in his Senate office.

As aides frantically hurried her to her appointments, she stayed unruffled and composed, explaining she is on a lecture tour of this country to thank America for its generosity over the years in feeding poor countries. But she is concerned about this generosity drying up.

She believes God has blessed the United States with plenty, "so you will be able to give, not just to give but give until it hurts."

She made no direct mention of this country's recent wheat sales to Russia, except possibly an oblique reference—"now the world is getting less, and if they are selling more than they have, then they will have less to give."

Reflectively, she asked, "do we really know the poor? Who they are? They hunger for love and bread. To be unwanted and unloved is a terrible loneliness. You have many poor in your country.

"Maybe the hungry are my next door neighbors. Maybe the hunger is in my own home. There is no more living, loving and sharing together, and if not in our own homes, how can we have it in our towns and in the world?"

Humphrey described his meeting with Mother Teresa with unrestrained enthusiasm.

"I told her it was like a religious experience. She's so marvelous, so gentle, yet persuasively strong. You feel a message and a mission to fulfill."

He said she told him she "hoped America would not deny itself the sense of fulfillment of sharing from your abundance, because I believe it's God's will you shall do this."

Today, Mother Teresa faced another crowded day during which she was to be the luncheon guest of Sen. and Mrs. Mark Hatfield, who became acquainted with her and her work on a visit to India last March, and wind up by addressing another ecumenical service at the National Presbyterian Church.

CONFIDENCE IN SOCIAL SECURITY ESSENTIAL

Mr. FONG. Mr. President, as one who believes strongly in the importance of social security to the American people, I have been taking note of the growing number of articles in the national press which raise some very valid questions about the system's financial soundness and prospects for the future.

The latest article of this type which has come to my attention is a lead article in the July 15 issue of U.S. News & World Report under the title, "Social Security, Promising Too Much To Too Many?"

I request that the article from this distinguished newsmagazine be printed at the conclusion of these remarks because I believe it is important that every member of the Congress become fully aware of what the people are being told about Social Security through the Nation's news media.

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

(See exhibit 1.)

Mr. FONG. Mr. President, while I am not prepared to vouch for the accuracy of all the conclusions in the U.S. News & World Report article, it underscores my belief that there is a major need for action to establish the National Social Security Commission proposed February 1, 1973 by Senator FANNIN and myself in Senate Joint Resolution 48. Part of the purpose of this Commission would be to fully restore public confidence in Social Security.

That more is needed than words of reassurance is emphasized by the recently released report by the social security trustees which stated that the retirement benefits program is now underfinanced by 3 percent of payroll on a long-term basis. It would appear that too often we in Congress have made changes in this important program on a casual basis without possession of all the facts or adequate information about broad ramifications of our actions.

The Fong-Fannin resolution calls for creation of a permanent blue ribbon panel of highly qualified persons, including experts in economics and actuarial science, which would maintain a constant over-view of the Social Security system from the standpoints of benefit adequacy, fiscal integrity, equitable treatment of beneficiaries and the system's inter-relationship to our whole National economy.

Members of the National Social Security Commission would be named on a bipartisan basis by the President pro tempore of the Senate, the Speaker of the House of Representatives and the President, with confirmation of Presidential appointees by the Senate.

As the biggest business operation in America, social security deserves no less than the continuous, independent, bipartisan review which would be provided through the National Social Security Commission.

Reference is made in the U.S. News & World Report article to the Advisory Council on Social Security recently named with responsibility for reporting recommendations for changes by next January 1. Nomination of such an Advisory Council every 4 years is mandated under present law. The Fong-Fannin resolution would replace this Council with the permanent Commission. I do not believe the limited kind of overview the interim Council now provides is adequate, nor is time which it is permitted to devote to the issues sufficient.

With all due respect to the abilities of the distinguished members on the Advisory Council and ones named in the past, their work inevitably is almost exclusively dependent on inputs from the Social Security Administration. The kind of review that is needed should not be so totally dependent on the system's administrative staff.

Nor is a quadrennial look at social security by such a part-time panel sufficient. As reflected in the U.S. News & World Report article, important changes in factors which influence the program's future are occurring constantly in our dynamic society. Among them, for example, are changes in birth rates, inflation rates and wage levels. The need is for continuous as well as independent study of the impact of such vital factors.

The information and expert opinions which would be forthcoming from the National Social Security Commission, including divergent views as appropriate, should and would be readily available to the public and the Congress, both as a basis for sound future decisions and public confidence in the system. I agree with the U.S. News & World Report that such public confidence is essential to Social Security's future.

EXHIBIT 1

[From U.S. News & World Report, July 15, 1974]

It was a program, begun in the Depression of the 1930s, designed to help the elderly through their retirement years. From that modest start, Social Security has swollen—almost unnoticed by the general public—into something different.

In the course of change, it has grown into a giant that, unless restrained, threatens to run out of control.

Benefits have skyrocketed—and are still on the rise.

Along the way, new ones have been added.

Taxes to pay for all kinds of benefits have soared—and the end is nowhere in sight.

One out of every 7 Americans get cash every month from Social Security. Within a decade, 1 out of 6 will be watching the mails for a monthly check from Washington. What worries people familiar with the system is this:

In just a few years, if inflation is not slowed considerably, Social Security may well be running in the red—paying out each month more than it takes in.

By 1990, just 16 years from now, the system will be running a deficit of about 20 billion dollars a year, by official estimate.

It is such prospects as these that are raising all kinds of questions: Is Social Security promising too much to too many? How safe are people's pensions? Unless something is done, can the system survive as it exists today?

Concern has become widespread. In Congress, talk of reform is beginning—and seems certain to grow. Other experts, in and out of Government, are worried, too.

The search is on for a way to reform—and save—Social Security.

INFLATION AND THE BIRTH RATE

The problem, in a nutshell: Social Security is growing at such an explosive rate that, as things stand now, there won't be enough money collected in the future to pay off all the benefits people have been promised.

Lately, Congress has liberalized benefits so rapidly that all the fat has been wrung out

of the trust funds set up to provide reserves to help finance the system.

Ahead, two major problems threaten the system: inflation and the declining birth rate in the U.S.

The way Social Security now operates, benefits—and the taxes to finance them—will automatically rise with inflation and rising wages. The catch is that benefits will increase faster than taxes on wages to foot the bill. That 20-billion-dollar deficit forecast for 1990 will grow even bigger in later years. To compound the problem, the shrinking birth rate is knocking into a cocked hat all the long-range forecasts of how many people will be paying taxes and collecting benefits.

Now the experts, looking ahead, say that, relatively, more and more oldsters will be depending on fewer and fewer workers to finance retirement and other benefits.

Increasingly, the question is asked: How long will workers be willing to shoulder a growing tax burden to support the retired, disabled and their dependents and survivors?

The prospect is that future benefits may have to be scaled back—or income flowing into the Social Security funds boosted through higher taxes.

Either alternative would be politically painful, but the political facts of life make one thing clear: Social Security as an institution is here to stay.

HOW SOCIAL SECURITY HAS CHANGED

To understand how the system came to the fix it's in, consider how Social Security has changed—almost beyond recognition—over the years.

Social Security was created by law in 1935, and a special tax on payrolls was levied. Collections began in 1937 and the first pensions were delayed until 1940, permitting a reserve to be built up.

The starting tax was 2 per cent—1 per cent each on employer and worker—on the first $3,000 of income. The tax now has moved to 11.7 per cent—5.85 per cent each on employer and employe—on $13,200 of annual income.

Pressures of all kinds—social, economic, political—have escalated benefits to levels that were undreamed of in 1940, when 222,000 monthly checks went out from Washington—about half to workers who had retired at age 65.

Checks then were as little as $10 a month, $41.20 at most. Now monthly retirement checks range from a minimum of $93.50 to $305 a month for a man retiring at 65.

The original idea of Social Security was to provide very modest benefits, only for retirement, as a supplement to other resources.

For many, perhaps most, Social Security is still not the sole source of income for those in retirement. Yet millions do depend on Social Security alone as their main source of retirement income. And this idea has developed along the way: Social Security alone should provide for modest retirement, if not for retirement in comfort.

Not only that. The scope of Social Security has been expanded. Benefits have been voted for dependents and survivors, not just for workers themselves. The retirement age has been lowered to 62, with reduced benefits.

Now, workers who are totally and permanently disabled also collect pensions. A massive program of medical insurance—medicare—has been added.

All told, some 80 million workers are covered, including the self-employed, or about 90 per cent of the work force.

THE MYTH, THE REALITY

In one way or another, Social Security touches the life of nearly every living person. Yet misunderstandings persist. Myths have grown up.

One of these myths concerns the very nature of Social Security. The system has been "sold" as a kind of "social insurance."

The typical American seems to believe that his Social Security is much like his insurance policy: He pays his "premiums" and, finally, either he or his family reaps the rewards. His benefits, he believes, are related directly to the "premiums" he pays.

The fact is quite different. The Social Security system is little more than a transfer plan under which younger workers, through their taxes, pay for the benefits of those in retirement or disabled, or their survivors and dependents.

In a true insurance system, reserves are built up somewhere near the level of commitments. No such thing has occurred under Social Security. Look at what has happened to Social Security reserves.

In 1947, reserves on hand were enough to pay annual benefits at that time for 17 years and 6 months.

By 1965, assets on hand were only enough to finance benefits for one year and two months—the last year that the value of assets exceeded annual payments.

Now, today's reserves are sufficient to pay benefits for only nine months.

Thus, as a practical matter, Social Security is now on a pay-as-you-go basis.

Put simply, each generation of workers foots the bill for the old—a never-ending process.

In the willingness of workers—or the lack of it—lies the uncertainty.

HOW BIG THE GIANT

The sheer size of the system itself—and its growing impact on the economy—is a source of mounting concern.

This year alone, benefits totaling more than $68 billion will be paid to 30 million people, or 14 per cent of the total population.

Taxes of 69 billion dollars will be collected over the same span.

You get an idea of the vastness of Social Security by comparing it with the nation's total income or federal budget revenue.

In 1947, Social Security payments accounted for less than 1 per cent of the people's income. Today, benefits account for 6 per cent of all personal income.

In 1947, Social Security taxes accounted for less than 4 per cent of all the money collected by the Federal Government. Now the figure is up to 23.4 per cent—nearly one dollar out of every four of federal revenue dollars.

To run the system, the Social Security Administration employs some 73,000 workers at an administrative cost of 1.8 billion dollars a year. They are concentrated in Washington and Baltimore, the home office of Social Security, but also are scattered throughout the U.S.

Today, the system is far bigger than all the other parts of the Department of Health, Education and Welfare put together. There is even talk of splitting Social Security off as a separate department of the Federal Government.

PAYING FOR THE BENEFITS

A closer look at the way federal taxes are rising to pay for more and more benefits points up the growing unease among Social Security experts—those who are both in and out of Government.

At no time have benefits and taxes been rising so rapidly as in the period since 1968. Since then, Congress has boosted the typical benefit by 69 per cent, far more than the 43 per cent increase in the cost of living.

Higher Social Security benefits means higher taxes.

During these same six years, the maximum Social Security tax has more than doubled—from $343.20 to $772.20 assessed to both the worker and his employer. The maximum tax levied on the self-employed has risen from $499.20 to $1,042.80.

At these levels, taxes are pinching workers' pocketbook nerves severely. Middle-income wage earners have been hit hardest. For employers, taxes are a major cost of doing business.

For millions of Americans—unofficial estimates run as high as half of all taxpayers—Social Security taxes take a bigger bite out of income than federal income taxes. A married man with two children, for example, would under typical circumstances pay about $406 in federal income tax on an annual income of $7,000—and $409.50 for Social Security.

That is a major reason why more and more American workers are asking questions continuously about the concept of Social Security.

AND IN YEARS TO COME—

When the experts look ahead, their concern rises further.

Even if Congress doesn't pass another law on Social Security, benefits and taxes will rise to surprising levels in future years.

That's because the lawmakers, in 1972, decided to hitch benefits and taxes to inflation—providing for automatic boosts in benefits when the cost of living climbs, and automatic increases in the amount of wages taxed when benefits are increased.

In addition, increases in the tax rate are already built into the law.

Assume, as the Social Security Administration does, that inflation will gradually subside, then level off at 3 per cent in the late 1970s and thereafter. Assume, too, that wages rise at about 8 per cent in the next few years, then level off at 5 per cent late in this decade. In that case, this is what happens:

By 1980, the maximum monthly benefit for a man retiring at age 65 will rise to $493.70, from $305 in 1974. By the year 2000—when today's 40-year-olds are ready for retirement—the benefit would be as much as $1,376.50 a month, or more than $16,500 a year.

If the retired worker's wife, in the year 2000, also is 65, their combined annual pension would be nearly $25,000.

This point is made, too:

Much of the boost in pensions will be eroded by inflation that lifted them to such levels.

Taxes to foot the bills will go zooming, too.

It's only six years until 1980. By then, workers alone will be paying as much as $1,180 a year, with employers matching that figure.

By the year 2000:

A maximum tax of $3,386 a year will be imposed on both the worker and his employer.

Huge as such taxes seem, they won't be enough to pay for increased benefits.

Later in this century and in the next one, those lower birth dates, coupled with longer life expectancies, will complicate matters by increasing the ratio of benefit-collectors to taxpayers.

As recently as 1955, there were only 15 people collecting benefits for every 100 workers paying taxes. Today, 38 persons collect for 100 workers taxed. The beneficiary-to-worker ratio will rise gradually until the year 2000, then pick up speed.

By the year 2030, an estimated 66 million Americans will be on Social Security—or 58 people for every 100 workers.

In view of the deficits ahead and the prospect of a shrinking force of workers, some people are beginning to wonder about the safety of their pensions.

Short range, the experts see no serious problems. The crunch comes later.

The outlook is sized up in these words by the system's board of trustees in its recent annual report to Congress:

"After the next five to 10 years, a tax increase or constraints in the growth of benefits will be needed for each of the three pro-

grams"—for retirement, for disability and for hospital insurance.

Social Security authorities say there is no way to demonstrate statistically that people's pensions are safe.

Yet they are sure of this:

No one receiving benefits now, nor anyone looking toward retirement need have any fear for the safety of his pension. Says one authority:

"No Congress, now or in the future, would dare to abolish Social Security, or even reduce current benefits. If any Congress should try it, it would mean revolution."

But this is not to say, it's quickly added, that the system will go on just as it is.

Authorities are convinced, in fact, that some kind of change is bound to come.

WHAT'S THE REMEDY?

An Advisory Council on Social Security—representing the public, employers, workers and the self-employed—was recently named to study the system and make recommendations for change by next January 1.

Then, a major debate is expected to begin. Members of Congress will be coming up with their own ideas. What to do about Social Security could well be a major issue in the presidential campaign of 1976.

The experts say there is no pat solution, but they are beginning to think seriously of the possibilities, including:

1. An increase in taxes over and above those already in the works. Already, especially among younger workers, rumbles of discontent are being heard over present tax loads. There is concern that these rumbles will grow louder as the tax burden grows.

2. Scaling down benefits as they are projected to rise in the future. This is one idea that seems certain to be considered—slowing down the escalator so that taxes and benefits would not rise as rapidly as scheduled under present law.

3. Putting a flat ceiling on monthly benefits. For example, maximum benefits might be frozen by law at, say $700 a month beginning with some year far in the future, leaving some future Congress to deal with the problem.

4. Invading the Treasury's general-revenue fund. There is considerable pressure, particularly from "liberal" Democrats, for this approach.

Yet this point is made: Supplementing Social Security from general revenue would convert the system into an outright welfare program—something that nearly everyone up to now has tried to avoid.

Each Congress would be called upon to appropriate funds for Social Security, just as it does now for everything from farm price supports to aid to education and tanks and planes for national defense. The inevitable result of that would be competition among these and other programs for general tax funds—and possibly increases in taxes for everyone.

Each of the alternatives would be painful, each full of drawbacks. Still, whatever the final remedy, the search is getting under way—for the failure to reform Social Security, almost everyone agrees, could lead in the long run to disaster.

FOUR DECADES OF INCREDIBLE GROWTH

On Aug. 14, 1935, President Franklin Roosevelt signed into law the Social Security Act, setting up a federal system of old-age benefits for retired workers. It covered workers in commerce and industry and promised benefits to retired workers when they turned 65.

Since then the scope of coverage and type of benefits has mushroomed.

THE MAJOR CHANGES

1939: Social Security became a family plan, not just one for retired workers. Wives 65 and over were made eligible to collect retirement benefits. Benefits were added for dependents and survivors of covered workers—such as widowed mothers, children under 18 years of age, dependent parents 65 and over.

1950: Coverage was expanded to regularly employed farm and domestic workers and nonfarm self-employed except for professional people. Coverage also was made available on a voluntary basis to many State and local-government employes and workers in nonprofit corporations.

New benefits: Dependents' pensions for wives under 65 caring for an eligible child, for husbands of female retirees and for divorced mothers.

1954: Farm operators and self-employed professionals except for lawyers and doctors were added to the list of those covered, as well as ministers on a voluntary basis.

1956: Coverage was extended to military personnel, the balance of professional self-employed, with the exception of doctors, and to firemen and policemen on a voluntary basis.

As for benefits: New system of insurance for totally and permanently disabled workers after age 50. The age at which women workers, widows and wives of retired workers can collect benefits is reduced to 62—with reduced benefits.

1958: Benefits provided for dependents of disabled workers.

1960: Disability benefits available to workers of any age, not just over 50. Coverage was extended to Americans working in the U.S. for foreign governments or international organizations.

1961: Male workers became eligible for retirement benefits as early as age 62, with reduced benefits. So did dependent husbands, widowers and parents.

1965: New system of medicare enacted for people over 65 providing hospital insurance and, on a voluntary basis, insurance for other doctors' bills.

Coverage extended to self-employed doctors. Full-time students aged 18 to 21 became eligible for survivor or dependent benefits. People aged 72 or over who did not work long enough under Social Security to qualify became eligible for benefits anyway.

1972: Disabled workers under age 65 made eligible for medicare.

3 POINTS ABOUT THE PEOPLE WHO COLLECT SOCIAL SECURITY [1]

1. A rising share of all Americans

In 1947: Less than 2 million people collected benefits—or 1 in every 71 Americans.

In 1957: About 11 million people collected benefits—or 1 in every 15 Americans.

In 1967: Nearly 24 million people collected benefits—or 1 in every 8 Americans.

Now: 30 million people collect benefits—or 1 in every 7 Americans.

By 1990: More than 40 million will be collecting benefits—or 1 in every 6 Americans.

2. A shrinking ratio of workers to pay the bills

In 1955: 7 workers paid Social Security taxes for each person collecting benefits.

In 1960: 4 workers paid taxes for each person collecting benefits.

Now: 3 workers pay taxes for each person collecting benefits.

By early next century: Only 2 workers will be paying taxes for each person collecting benefits.

3. A look at the makeup of beneficiaries

Of the 30.1 million people now collecting benefits—

Barely more than half—15.9 million—are retired people. All but 1.6 million of the retirees are 65 years of age or older, the rest are 62 to 64.

About one fourth—7.5 million—are adult survivors or dependents of beneficiaries, the great bulk of these over age 65.

4.7 million are children collecting as dependents or survivors.

A shade over 2 million are disabled workers.

[1] Source: U.S. Dept. of Health, Education, and Welfare.

SOCIAL SECURITY TAXES AND BENEFITS—AND HOW THEY GROW [1]

Taxes

Maximum paid by workers (matched by employers):

1937–49	$30
1950	45
1951–53	54
1954	72
1955–56	84
1957–58	94.50
1959	120
1960–61	144
1962	150
1963–65	174
1966	277.20
1967	290.40
1968	343.20
1969–70	374.40
1971	405.60
1972	468
1973	631.80
1974	772.20

Maximum paid by self-employed persons:

1937–49	
1950	
1951–53	$81
1954	108
1955–56	126
1957–58	141.75
1959	180
1960–61	216
1962	225.60
1963–65	259.20
1966	405.90
1967	422.40
1968	499.20
1969–70	538.20
1971	585
1972	675
1973	864
1974	1,042.80

In years to come: The wage base on which Social Security taxes are levied, now $13,200, will automatically rise with inflation and average wages in U.S., under current law. Payroll-tax rate, now 5.85 per cent for workers and employes, is set to rise gradually over the years reaching 7.45 per cent by the year 2,011, and to 8.5 per cent for self-employed by 1986. Based on assumptions of moderating wage hikes, here are maximum taxes that might be levied in future:

1975	$824.85	$1,113.90
1980	1,179.75	1,579.50
1990	2,070.45	2,728.50
2000	3,386.25	4,462.50
2011	6,705.00	7,650.00

Note: Self-employed people were not covered until 1951.

Benefits

Maximum monthly benefit for a worker retiring at age 65—

1940	$41.20
1951	68.50
1953	85.00
1955	98.50
1959	116.00
1962	121.00
1966	132.70
1968	156.00
1970	189.80
1972	216.10
1973	266.10
1974	304.90

In Years To Come: Benefits will automatically rise with average consumer prices in the U.S., even if Congress votes no further boost in payments. Based on assumptions that inflation will gradually slow to 3 per cent by 1978, then hold level at that figure, here are maximum benefits that might be paid in future:

[1] Source: U.S. Dept. of Health, Education and Welfare.

1975	$330.30
1980	493.70
1985	636.30
1990	810.50
1995	1,037.40
2000	1,376.50
2010	2,366.90
2025	5,114.10

Note: Inflation will erode much of the buying power of the increase in benefits.

PEACEFUL USES OF NUCLEAR ENERGY

Mr. GRIFFIN. Mr. President, yesterday the Senate adopted an amendment to the 1954 Atomic Energy Act which, if passed by the House of Representatives and signed by the President, will assure a greater role for Congress in formulating cooperative arrangements with other nations in the peaceful uses of nuclear energy.

This legislation and Senate insistence upon a larger congressional role evolved as the result of two recent events: The detonation of a nuclear explosive device on May 18 by India; and the announcements by President Nixon that the United States will begin negotiations looking toward cooperative arrangements for peaceful use of nuclear energy with Egypt and Israel.

The vote in the Senate, which was unanimous, clearly reflects that there is a serious concern in the Congress about the dangers of continued proliferation of plutonium and its possible use for nonpeaceful purposes.

Frankly, I am troubled about international arrangements now in effect for cooperation in this area with India. It is important that more adequate safeguards be required in the future to assure that nuclear assistance for peaceful purposes is not diverted to development of nuclear explosive devices.

On the other hand, I also recognize that real and substantial benefits can be gained from our continued cooperation with other nations in the peaceful uses of nuclear energy. What is needed, however, is a balanced, carefully considered, rational policy of international cooperation which permits peaceful uses but effectively guards against the use of nuclear materials and technology for nonpeaceful purposes.

THE INDIAN EXPLOSION

On May 18, India exploded a nuclear device which produced a yield of between 10 and 15 kilotons—that is to say, an explosion equal to between 10,000 and 15,000 tons of TNT. In order to obtain plutonium for the device, India irradiated its own uranium in its 40-megawatt Cirus research reactor which was built by Canada.

In 1956, when the Canadian-built reactor first began operation, the United States sold India four shipments, totaling over 20 short tons, of heavy water for use in the reactor. Subsequently India began producing its own heavy water, and direct U.S. involvement with the project ceased. Although this transaction predated by nearly a decade the establishment of the International Atomic Energy Agency—IAEA—and its safeguards system, an agreement entered into between the U.S. Atomic Energy Commission and the Government of India provided that:

> The heavy water sold hereunder shall be for use only . . . for peaceful purposes. Similarly, an agreement between Canada and India expressly stipulated that the Canadian-built reactor was to be used only for peaceful purposes.

India claims that it has not violated the terms of the agreement with Canada, arguing that the explosion was for "peaceful purposes." Instead of producing an atomic bomb, India asserts that it simply conducted "a peaceful nuclear explosition experiment." There are, however, no real differences between a nuclear bomb and a nuclear "device" intended for "peaceful purposes." Both the United States and Canada have made it clear to India that they do not interpret "peaceful purposes" to include development of any form of nuclear bomb or device. Thus far, India has only "taken note" of our positions.

In 1963 the United States began work on a 380 megawatt electrical nuclear power station at Tarapur, India—60 miles north of Bombay. An "Agreement of Cooperation," signed prior to the construction of that facility, provided what appeared at the time to be adequate assurances that the Tarapur reactors would not be used to produce bombs. For example, Article VI (a) provided:

> The parties to this agreement emphasize their common interest in assuring that any material, equipment, or device made available to the Government of India for use in the Tarapur Atomic Power Station, or in connection therewith, pursuant to this agreement shall be used solely for peaceful purposes . . .

Section (d) of the same Article further provided:

> In the event of noncompliance with the guarantees or with the provisions of this article, and the subsequent failure of the Government of India to fulfill such guarantees and provisions within a reasonable time, the Government of the United States of America shall have the right to suspend or terminate this agreement, and require the return of any equipment and devices transferred under this agreement and any special nuclear material safeguards pursuant to this article.

In further clarification, Article VII (a) stated in part:

> The Government of India guarantees that the safeguards in article VI shall be maintained and that:
> (1) No material, equipment, or device transferred to the Government of India or authorized persons under its jurisdiction pursuant to this agreement, by sale, lease or otherwise, will be used for atomic weapons or for research on or development of atomic weapons or for any other military purpose * * *.

In 1963 the International Atomic Energy Agency had been created, but at the time it had not developed a system of safeguards appropriate for the type of reactors under consideration. However, the Agreement of Cooperation—article VIII (a)—envisioned eventual negotiation of a trilateral agreement—between India, the United States and the IAEA—for application of IAEA safeguards to the Tarapur Atomic Power Station once appropriate safeguards were developed. Subsequently, on January 27, 1971, such a trilateral agreement went into effect, thus bringing the Tarapur reactors under IAEA safeguards.

According to part I, paragraph 18 of the IAEA Safeguards System:

> In the event of any non-compliance by a State with a *safeguard agreement*, the Agency may take the measures set forth in Articles XII.A.7 XII.C of the Statute [of the IAEA].

These articles provide in part:

ARTICLE XII

AGENCY SAFEGUARDS

> A. With respect to any Agency project, . . . the Agency shall have the following rights and responsibilities to the extent relevant to the project or arrangement:
> * * * * * *
> 7. In the event of non-compliance and failure by the recipient State or States to take requested corrective steps within a reasonable time, to suspend or terminate assistance and withdraw any materials and equipment made available by the Agency or a member in furtherance of the project.
> * * * * * *
> C. . . . The [IAEA] inspectors shall report any non-compliance to the Director General who shall thereupon transmit the report to the Board of Governors. The Board shall call upon the recipient State or States to remedy forthwith any non-compliance which it finds to have occurred. The Board shall report the non-compliance to all members and to the Security Council and General Assembly of the United Nations. In the event of failure of the recipient State or States to take fully corrective action within a reasonable time, the Board may . . . direct curtailment or suspension of assistance being provided by the Agency or by a member, and call for the return of materials and equipment made available to the recipient member or group of members. The Agency may also, in accordance with article XIX, suspend any non-complying member from the exercise of the privileges and rights of membership.

It seems to me that there are some obvious conclusions to be drawn from this information:

So long as India continues to play its semantical game of defining atomic bombs to be "peaceful devices," her promise to the United States and the IAEA to limit the use of American-provided nuclear materials to "peaceful purposes" is meaningless.

If India is allowed to misuse peacefully intended nuclear assistance to manufacture atomic bombs, it is difficult to believe that other nations which have received similar assistance will not follow suit.

While provisions of the existing IAEA Safeguard System appear adequate to detect a violation, it is necessary to take a new, close look at available enforcement procedures.

Certainly, a complete review of our nuclear assistance arrangements with India is in order. At a minimum, if India refuses now to provide meaningful assurances that no U.S.-provided nuclear materials will be used to construct explo-

sive devices—regardless of how they are described by India—the United States should terminate all nuclear assistance to India and demand that materials we have provided be returned.

Second, there is the question of other forms of American aid to India. I am concerned by several recent press reports which indicate that:

In the past 5 years, India has spent no less than $173 million on atomic energy.

In the past dozen years, India's military spending has increased by more than 200 percent, consuming 30 percent of the national budget.

In the next 5 years, India is tentatively set to spend another $315 million on atomic energy.

India is currently planning to develop a three-stage rocket, which within 5 years could give India a nuclear-armed intermediate-range ballistic missile—IRBM.

About 175 million people in India live below a very low poverty line of $30 a year.

Over 70 percent of the population in India is illiterate.

Nearly 80 percent of the children in India are malnourished.

As I understand it, the United States currently provides about $50 million worth of food supplements for India's children under title II of Public Law 480. This is humanitarian assistance, and I have always supported it. In addition, it is anticipated that the United States will soon negotiate $75 million in agricultural loans—mostly fertilizer—for India.

Of course, India is a sovereign nation, and there is no suggestion of a challenge to that status. But India is determined to develop nuclear weapons, surely we have an obligation to reexamine our policies of assistance to, and cooperation with, India.

We have a clear international responsibility under the terms of the 1968 Nuclear Nonproliferation Treaty not to assist India in any way to develop atomic explosive devices.

Furthermore, we have a clear responsibility to the American people—to the American taxpayers—to allocate our own limited resources rationally. We can work with the Government and people of India in trying to alleviate as much of the suffering in that country as possible. But it makes no sense for the American people to send $125 million to India to fight starvation, if the Government of that country is going to allocate its resources to the development of atomic bombs. Why should we provide aid if it merely frees up Indian resources to develop nuclear weapons in violation of its pledges to the United States and to Canada.

The atomic explosion in India serves to point up a dangerous possibility of plutonium in other countries as well. Today there are about two dozen nations which could develop nuclear weapons within the next 10 years, if they so desire. They include Japan, West Germany, Argentina, Brazil, Pakistan, and South Korea. Thus far, none of these nations has signed the Nonproliferation Treaty. Obviously, the Indian explosion could increase the likelihood that one or more of these nations will move to develop "the bomb." As columnist Thomas O'Toole noted in the July 9, 1974 issue of the Washington Post:

India set the example this year for the others. The heat is off. They can decide to go nuclear without the worry of worldwide reprimand.

The superpowers were oddly mute in their criticism when India tested its bomb. They expected it. The next nation to get the bomb will probably get the same silent treatment.

Because of the Indian explosion, our efforts and the efforts of the international community over the past decade to limit proliferation of nuclear weapons are now in jeopardy. Pakistan, for example, is not likely to sit idly by if India is to continue with its development of nuclear explosives.

Other nations with potential to develop nuclear weapons are bound to be watching now to see how the United States reacts to the Indian explosion; the policies of other nations may well be influenced by our response. If India gains as a result of its irresponsible adventure, other nations will be encouraged to follow suit. It is essential that we bear that point in mind during the months ahead.

NUCLEAR AID TO THE MIDDLE EAST

On June 14 of this year, President Nixon announced that the United States will soon begin negotiating an agreement with Egypt "for cooperation in the field of nuclear energy under agreed safeguards." It was subsequently revealed that the cooperation under consideration would involve construction of a 600-megawatt nuclear power reactor in Egypt. Three days later, the President offered to negotiate construction of a nuclear power reactor in Israel.

It should be emphasized that there is nothing new about American cooperation with other nations in the peaceful uses of nuclear energy. Currently, the United States has 30 agreements with 29 countries for cooperation in nuclear research and/or power. Nuclear plants are now operating in no less than 15 countries, and additional plants are under construction in at least 10 other countries. Plants are on order by another dozen or so. Japan, for example, has expressed its intention to build 16 nuclear powerplants in the near future.

Furthermore, nuclear power is not a new idea in the Middle East. Egypt already has a 2-megawatt research reactor which was obtained in 1961 from the Soviet Union. Israel already has two reactors—a 5-megawatt American-built reactor which began operating in 1960—and is subject to full IAEA safeguards—and a 25-megawatt "Dimona" reactor provided by France.

In an article in the June 26 issue of the New York Times, C. L. Sulzberger wrote that:

When President Nixon promised to sell nuclear fuel and power plants to Egypt and Israel . . . he was in part carrying out a policy originally conceived by ex-President Eisenhower and his former atomic energy chief (Lewis Strauss) in 1967.

According to Sulzberger:

The later policy hoped to facilitate peace by developing the barren borderland between Egypt and Israel and . . . between Jordan and Israel. The recommended means of carrying this out was to establish three large nuclear plants in those areas, providing ample power for, among other things, mass desalting of water to irrigate the desert. . . . Not only new sources of power but vast quantities of fresh water would be made available to an area which could then prove capable of absorbing the entire population of unhappy Palestinian Arab refugees.

In conclusion, Mr. Sulzberger asserted:

The Nixon-Kissinger appreach clearly seeks to create necessary political and human conditions for peace before constructing its economic basis; and this may prove to be sensible. Either way, the goal is the same: a durable settlement in the Middle East and (as the first Strauss draft suggested): "The beginning of a new life in the lands of the oldest civilizations."

Mr. President, I ask unanimous consent that the full text of Mr. Sulzberger's article, "Atoms for Peace in the Middle East," be printed in the RECORD at the conclusion of my remarks

Although the recent discussions with Egypt concerning possible new American nuclear assistance did not begin until April 29 of this year, considerable research looking toward such a development had already been done. For example, in September of last year the International Atomic Energy Agency released a Market Survey for Nuclear Power in Developing Countries on Egypt. After a thorough consideration of such factors as population growth, energy consumption, and various nonnuclear sources of electrical energy, the report examined various alternative expansion plans and concluded:

The alternative expansion plan selected requires a 600 MW unit [i.e., nuclear power reactor] be added in 1980.

This was determined to be "the near-optimum expansion plan" for meeting Egypt's energy needs of the 1980's, and is precisely the type and size unit currently under negotiation. I mention this to alleviate any suspicion that the proposed new agreement was hastily conceived for strictly political reasons. The development, in fact, is consistent with the recommendations already made by the International Atomic Energy Agency of the United Nations.

There are several important reasons for the United States to move now toward peaceful nuclear cooperation, under adequate international and bilateral safeguards, with key countries in the Middle East. First, such a move should be viewed in the context of a major effort being made by the United States to strengthen relationships with the countries in that area. The success of that effort can clearly be enhanced by cooperation in the economic sphere. In his June 17 press conference, Secretary Kissinger observed:

This reactor will take from six to eight years to build and in that period will, of course, provide an incentive to concentrate on, among others, economic development rather than on military purposes—a period of time within which we believe that the turn towards peace in the Middle East can be finally accomplished.

Furthermore, it would be unrealistic not to recognize that countries in the

Middle East are going to have nuclear power generating plants, whether or not the United States plays a role. That point was underscored on June 27 when the Government of Iran signed a $4 billion development agreement with France, providing in part for construction in Iran of five 1,000 megawatt nuclear reactors. France is not a member of the International Atomic Energy Agency, and does not normally insist upon strict safeguards in connection with nuclear assistance agreements. There was no public mention of safeguards when the agreement was announced. Fortunately, in the case of Iran there are implied safeguards because Iran has signed and ratified the Nuclear Nonproliferation Treaty of 1968, which requires compliance with IAEA safeguard guarantees. However, Israel has neither signed nor ratified the Treaty. Egypt has signed the treaty but has yet to ratify it.

Since the danger that nuclear materials may be diverted to military uses is especially real in the Middle East, and since neither France nor Russia requires IAEA safeguards, it seems particularly important and desirable that reactors to be built in the Middle East be obtained through cooperation with the United States under meaningful safeguards.

The validity of that reasoning was recognized recently by an editorial statement of the Washington Post, a publication not known for its support of the Nixon administration. Noting that some will try to block any nuclear assistance to Egypt, the editorial said: "We think that would be extraordinarily shortsighted." The Post reasoned:

Politically, to pull out of the Egyptian nuclear project would be to repeat John Foster Dulles' error of retracting support for the Aswan Dam: in reaction, Nasser nationalized the Suez Canal (which led to Suez War) and went to Moscow for his Aswan Dam. In fact, nothing better serves Israel's security than for Egypt to absorb itself in economic development, with the United States closely watching.

I ask unanimous consent that the editorial from the June 18, 1974 issue of the Washington Post, entitled "Mr. Nixon and the Mideast," may also be printed in the RECORD at the end of my remarks.

CONCLUSION

Accordingly, against the background of these developments and taking into account the limited options available, I believe the move made by President Nixon to negotiate toward nuclear cooperation with Israel and Egypt deserves support. However, I also believe that the action taken by the Senate on yesterday, requiring closer scrutiny of such arrangements with the expectation that meaningful safeguards will be required, also represented a step that serves our national interest as well as the interest of world peace.

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

[From the New York Times, June 26, 1974]

ATOMS FOR PEACE IN THE MIDDLE EAST

(By C. L. Sulzberger)

WASHINGTON.—When President Nixon promised to sell nuclear fuel and power plants to Egypt and Israel—the outstanding commitment of his Middle Eastern trip—he was in part carrying out a policy originally conceived by ex-President Eisenhower and his former atomic energy chief in 1967, during the Lyndon Johnson Administration.

The latter policy hoped to facilitate peace by developing the barren borderland between Egypt and Israel and (in the extreme south) between Jordan and Israel. The recommended means of carrying this out was to establish three large nuclear plants in those areas, providing ample power for, among other things, mass desalting of water to irrigate the desert.

The original blueprint was drawn up by Adm. Lewis Strauss right after the June 1967 (Six-Day) war in which Israel defeated its Arab neighbors. Admiral Strauss, who had been Eisenhower's A.E.C. chairman, sent a memorandum on June 23 to the former President at his Gettysburg, Pa., home.

Eisenhower immediately sensed the plan's peace-making possibilities. He drew it to the attention of President Llewellyn Thompson, who had been assigned to brief him on Johnson's colloquy with Soviet Premier Kosygin at Glassboro, N.J. He suggested Johnson raise the subject with Kosygin. There is no sign this was done.

The logic developed by Eisenhower from the Strauss draft was that both Arabs and Israelis would gain something tangible from the proposal, thus removing fundamental causes of tension. Not only new sources of power but vast quantities of fresh water would be made available to an area which could then prove capable of absorbing the entire population of unhappy Palestinian Arab refugees.

Recalling the peacemaking mission of 1955, when he had sent Eric Johnston to the Middle East on a voyage of diplomatic exploration, Eisenhower said to me (July 10, 1967): "This makes the Johnston plan look like a flea against a dog."

As Eisenhower thought, the United States should take the lead in facing the "real issues" of the region: shortage of water and the question of refugees. Two or three large nuclear plants were required with the idea of generating between 750 million and a billion gallons of sweet water daily. He added: "The bigger the plant, the more economic the operation. This water would cost more than the price of New York City water but it is cheap for a country that doesn't have water at all. And Syria, Jordan, Israel and Egypt would all profit so much from such a plan that the people couldn't permit their government to refuse participation."

Unfortunately, that chance was never officially presented. As far as I have been able to ascertain, President Johnson let the idea drop. Although the Eisenhower-Strauss project envisioned two nuclear plants on the Mediterranean (in the area contiguous to both Israel and Egypt) and a third at the head of Aqaba Gulf (contiguous to Israel and Jordan) nothing ever materialized.

The project conceived of joint U.S. and private financing of a chartered corporation to initiate the program even prior to formalized frontier accords between the states involved. It would have provided the area with perhaps two and a half times the water of the whole Jordan River system and its creation could have absorbed the idle labor reservoir of Arab refugees. Unfortunately, this imaginative approach failed to galvanize State Department or White House thinking in 1967.

The Nixon-Kissinger policy that has been broadly depicted by the President (who, after all, was Eisenhower's Number Two) will serve as a viable if delayed substitute to the stillborn original. It contains some of the same essentials—aimed at helping and also pacifying both Arabs and Israelis and at creating the human and economic climate for peace.

No commitment seems to have been made on the Jordanian-Israeli area of Aqaba. Nor can one yet formally link the two halves of the program—Arab and Israeli—or analyze financing problems and economic implications. Yet nuclear power for desalting water was specifically discussed in Israel by President Nixon and more generally reviewed with President Sadat in Egypt.

The Nixon-Kissinger approach clearly seeks to create necessary political and human conditions for peace before constructing its economic basis; and this may prove to be sensible. Either way, the goal is the same: a durable settlement in the Middle East and (as the first Strauss draft suggested): "The beginning of a new life in the lands of the oldest civilizations."

[From the Washington Post, June 18, 1974]

MR. NIXON AND THE MIDEAST

By his Mideast swing President Nixon put the United States firmly in a position—for the first time in a generation—to pursue good relations with Arabs as well as Israelis and to promote accommodation between them. One can argue whether the United States had and missed earlier opportunities to follow this policy. Much less arguable is the proposition that this is a responsible policy, consistent with broad American interests and with American values too. Many hazards remain. But Mr. Nixon deserves general respect for making the change. He and Dr. Kissinger perceived that the Arabs, by their war effort of last fall, had gone a long way to liberate themselves from old myths and were now prepared to countenance a new approach by the United States. If it was Dr. Kissinger's diplomatic skill which consummated this American opening, it was on Mr. Nixon's political authority that he did so. The President's visit has added an extra and useful level of commitment to the new American policy.

There is a nice symbolism to the fact that Mr. Nixon visited Israel in between his visits to Arab states. Israel sits between Arab states, and the United States has solid reason to be on good terms with them all. For many years it appeared that Washington had to choose between Israeli and Arab friendship. To the extent that the region inches towards settlement, that choice now appears obsolete, if not false. The United States is "rapidly moving into an era of close cooperation and interdependence" with the Arabs, Mr. Nixon now correctly says. Yet he could also reaffirm the United States' traditional friendship with Israel—and sweeten his dealings with Arabs by making the same nuclear offer to Israel as to Egypt, and by making to Israel an unprecedented pledge of substantial and continuing military and economic aid. Surely Congress, which must approve all these offers, will agree that the United States should try to stay on both tracks.

The issue of the nuclear reactors makes the point precisely. Mr. Nixon announced he would supply reactors and fuel to both Egypt and Israel. The economic fruits of nuclear power, though exciting, are uncertain and lie a decade ahead. The political effects are immediate and real. Israelis, ever anxious about their security, at once wondered if Egypt would someday cheat and build a bomb; some Israelis and some Americans would therefore block the nuclear plan. We think that would be extraordinarily shortsighted. Worries about military diversion are legitimate but the way to address them is for the administration to tell Congress fully and publicly how the "safeguards," American and international, are to work. Politically, to pull out of the Egyptian nuclear project would be to repeat John Foster Dulles' error of retracting support for the Aswan Dam: in reaction, Nasser nationalized the Suez Canal (which led to the Suez War) and went to Moscow for his Aswan Dam. In fact, nothing better serves Israel's security than for Egypt

to absorb itself in economic development, with the United States closely watching Israel after all, has had its own nuclear reactor, with no foreign "safeguards," for nearly two decades.

The President contributed to a better atmosphere in the Mideast. He did not, of course, resolve the region's great problems. He leaves; they stay. Along his parade route in Damascus, for instance, were posters of the Palestinians who did the murdering at Maalot. The Israelis remain acutely apprehensive, the Arabs equally volatile: fear and emotion have produced war too many times before in the Mideast. The Russians, moreover, may be licking their political wounds, waiting to reassert their fallen influence by, say, egging on extremists of one sort or another. For all of these risks, nonetheless, we think that a relative and cautious optimism is warranted. Mr. Nixon, who carried off his Mideast trip with a sure and purposeful hand, deserves appropriate credit.

NORTH CAROLINA—THE VEIL OF HUMILITY

Mr. ERVIN. Mr. President, Archie K. Davis, one of North Carolina's finest citizens, has written an article entitled "The Veil of Humility" which sets forth many historical facts concerning North Carolina. I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the article was ordered printed as follows:

THE VEIL OF HUMILITY

(By Archie K. Davis)

Strange as it may seem, coming from a banker, my subject this evening is humility. This should come as no surprise, however, since I wish to speak about our beloved state of North Carolina. To enjoy the dignity of this forum is a rare privilege indeed, and I am highly honored to have this opportunity of appearing before the seventy-third annual meeting of the North Carolina Literary and Historical Association, an organization which has done so much to emphasize and sustain the cultural heritage of our people.

That we in North Carolina should be the beneficiaries of your inspiration and leadership is but natural; for it so happens we are citizens of a great and good state, a state not unaccustomed to leadership and progress in many fields of social and economic endeavor.

As a lay student of history I have long been intrigued by the average North Carolinian's self-proclaimed spirit of humility. From whence came this penchant for prostration it is difficult to say. Most assuredly, down through the years we seem to have wandered through the wilderness of comparative history until we finally settled in the valley or "*vale* of humility between two mountains of conceit." But I believe this coinage of history to be patiently contrived, as it simply does not ring true. More appropriately, in fact, it might be inferred that we have hidden behind the *veil* of humility. To what end I know not unless for the psychological advantage of disarming our neighbors by feigning frustration and all the while quietly but effectively building a great state.

In this contemporary, materialistic society in which North Carolina finds herself, is it not an incontestable fact that we stand preeminent in a wide variety of accomplishments? For a people who consume more of their own corn and cattle, cut more of their own wood for fuel and fiber, and grow more sweet potatoes than any other state, we simply cannot justifiably deny our capability for creative energy and downright hard work.

How else can one explain the fact that today North Carolina ranks first among the fifty states in the production of tobacco and tobacco products, first in the production of quality furniture, and first in the production of a wide variety of textile products. Among the eight southeastern states, although ranking second in population, North Carolina leads by far in the number of manufacturing employees, in the value of manufactured output, and in capital expenditures for new plant and equipment. While excelling in manufacture we have not neglected agriculture, so vital to a balanced economy; for again North Carolina far exceeds her sister states of the Southeast in the total value of farm output. Turning to international trade which holds such great promise for the future, North Carolina, not uncharacteristically, ranks first in the value of both manufactured and agricultural exports, amounting to $1,350 million or about 25 percent of total southeastern exports in 1972.

So, this Carolinian concern for humility is bound to be a product of the past, and justifiably so; for there is no question but that the contentious attitude of certain of our sister states forced us, time and again, to labor in despair, if not to assume the role of the meek and lowly. But one can "suffer the slings and arrows of outrageous fortune" only so long before counteraction becomes a necessity. And the authority for this is to be found in the report of your fifth annual meeting held in Raleigh on October 18, 1904. The news account in the *Charlotte Daily Observer* the following day carried this revealing headline:

REPLY TO JUDGE CHRISTIAN: NORTH STATE'S WAR RECORD

Committee appointed by the State Historical and Literary Society Presents Its Report—The Challenge of the Virginia Veterans Met with Facts and Figures. . .

The committee report was made by Judge Walter Clark and was in reply to the challenge of Judge George L. Christian of the United Confederate Veterans of Virginia in which he attempted to refute the proud claim that North Carolina was "First at Bethel, farthest to the front at Gettysburg and Chickamauga, last at Appomattox." The report was based upon eyewitness accounts of such outstanding veterans as Major E. J. Hale, Judge W. A. Montgomery, Captain W. R. Bond, Judge A. C. Avery, Senator Henry A. London, and Captain S. A. Ashe. The evidence was irrefutable and, in my judgment, marked the day that North Carolina's veil of humility was cast aside forever. She was ready to stand up and be counted. No longer would she yield to the alleged superiority of others, particularly to the commonwealth of Virginia whose penchant for priority and primacy in all matters historic had been carefully nurtured since the founding of Jamestown on April 26, 1607. To this day Virginia has not forgiven Queen Elizabeth and Sir Walter Raleigh for having established the first English settlement in the Western Hemisphere on North Carolina soil, and she still questions our claim to the first child of English parentage by smugly inquiring why we named her Virginia.

Beginning about 1750, when Governor Robert Dinwiddie secured the services of Christopher Gist of North Carolina to lead young George Washington into the Ohio Territory—and later when Daniel Boone, moving out from his home on Bear Creek in Northwest North Carolina, pioneered what we now know as Tennessee and Kentucky—the commonwealth has unrelentingly persisted in her determination to assert prior claim to almost every important person, place, and event in American history. So, after Boone's early exploits, it was to be expected that Virginia would move swiftly to establish George Rogers Clark as the "Defender of Kentucky" and "Conqueror of the Northwest." To make assurance doubly sure, Meriwether Lewis and Will Clark, both of Albermarle County, Virginia, were quickly dispatched on their famous expedition to the great Pacific Northwest in 1804–1806. Years and years later the temptation could not be resisted to erect a historic marker at what is now Sioux City, Iowa, declaring that Sergeant Floyd was the first white man to die and be buried west of the Mississippi River. He was, of course, a member of the Lewis and Clark Expedition and, above all else, a Virginian.

Had it not been for the commonwealth I doubt seriously there would have been a Southwest or a Texas as we know those areas today. It was President Thomas Jefferson of Virginia who negotiated the Louisiana Purchase. It was Stephen F. Austin, of Carroll County, Virginia, who came to be known as the "Father of Texas," and it was Sam Houston, of Rockbridge County, Virginia, who ensured the presence of the mighty state of Texas among us by defeating the Mexicans at the Battle of San Jacinto in 1836. He was, incidentally, the first president of the Republic of Texas.

And, while on the subject of presidents, it would be an unforgivable oversight if I neglected to mention that in the first thirty-six years of our republic there were only four years in which a Virginian was not serving as president of the United States. Why John Adams and his son, John Quincy, were permitted to break the continuity of the Virginia dynasty is still a mystery. It is not a mystery, however, that Virginia's monopoly was finally terminated in 1828 when the Carolinian and commoner, Andrew Jackson, was elected president. I use the word Carolinian advisedly for there appears to be some question as to whether he was a North or South Carolinian. To me, there is no question. He was born in the Waxhaw settlement of North Carolina. If that area is no longer within our border, then South Carolina is indeed guilty of a serious intrusion upon our territorial integrity.

As we all know, North Carolina has produced three great presidents: Andrew Jackson, James K. Polk, and Andrew Johnson. But in each instance we have been subjected to the predatory claims of others. South Carolina claims one, and Tennessee claims all three. What Tennessee apparently doesn't acknowledge too readily is that she got her start as the western territory of North Carolina in 1663 and only reluctantly became the Volunteer State in 1791. North Carolina's three future presidents, in effect, tarried only temporarily in Tennessee while on their way to the White House.

The word *predatory* perhaps best exemplifies the attitude of our sister states. In establishing our own claims to greatness we in North Carolina have never enjoyed the role of adversary. Only when pressed do we customarily respond. While historians dispute whether there was a Mecklenburg Declaration of Independence on May 20, 1775, they are unanimous in agreeing that the Mecklenburg Resolves were adopted eleven days later, declaring that "the Provincial Congress of each Province under the direction of the great Continental Congress is invested with all legislative and executive powers within their respective Provinces and that no other legislative or executive power does or can exist at this time in any of these colonies." In calling attention to early action by North Carolinians, we do not deprecate the majesty of Thomas Jefferson's Declaration of Independence of July 4, 1776. The fact that we beat Virginia to the draw was merely a matter of timing.

Well, Jefferson never forgave us for claiming this chronological advantage. He waited until July 9, 1819, in a letter to his friend John Adams, to brand the Mecklenburg claims as "spurious." Not until 1831 did our state legislature reply. Both our legislators and Mr. Jefferson could have been spared

this belated confrontation had they referred to the Bagge manuscript in the Moravian Records of 1775. For there, specific reference to the Mecklenburg action is to be found, and on July 7, 1775 the visit of Captain Jack to Salem on his return from Philadelphia is faithfully reported.

In this same vein, Virginia's aggressive attitude following the American Civil War has occasioned untold misery for countless historians in their effort to distinguish fact from fiction. That the South lost the war has never been at issue, but to hear Virginia's version one must conclude that she, having claimed such a high degree of participating leadership, must bear some blame for losing it.

Just turn the pages of American history with me, if you will, to July 3, 1863, the third and final day at Gettysburg, the day of Longstreet's assault and repulse, with James Johnston Pettigrew of North Carolina in command of the left flank and George Edward Pickett of Virginia in command of the right. The assault was aimed at Hancock's left, resting on the crest of Cemetery Ridge immediately behind the upper rock wall and eighty paces beyond the lower wall that ran parallel to it. The connecting wall between the two formed what came to be known as the "angle," and it was in this general area that the "high water mark" of the Confederacy was reached on the afternoon of July 3. It was here that the immortal General Lewis A. Armistead of Virginia penetrated the lower wall and literally died at the mouth of a cannon forty paces beyond.

It was this heroic effort that led Virginia to claim almost immediately that her troops went farthest up Cemetery Ridge. In fact, the third day at Gettysburg quickly came to be known as "Pickett's Charge," with little or no credit to the name of James Johnston Pettigrew, whose troops, moving to the left of the "Angle," had fought their way to the very crest of Cemetery Ridge. With over 50,000 casualties on both sides during the three-day Battle of Gettysburg, there should have been ample glory for all, but Virginia, bless her, would simply not admit that North Carolina troops had advanced almost forty paces beyond the point where Armistead fell. North Carolinians bore this slight with characteristic equanimity, but, with some, the dispute quietly simmered for years until, finally, your association could stand it no longer.

At a meeting in Raleigh on November 12, 1903, the Literary and Historical Association adopted a resolution calling for the creation of a committee to investigate and report upon the accuracy of North Carolina's Civil War claims. This report was submitted one year later and should have dispelled forever any doubt as to the magnitude and excellence of North Carolina's contribution to the Confederacy. The report of Judge W. A. Montgomery and Captain W. B. Bond, dealing specifically with the third day at Gettysburg, proved beyond question that Pettigrew and his men went farthest to the front. But even then the dispute would not die. It surfaced again in 1913 upon the occasion of the fiftieth anniversary of Gettysburg.

After reading Captain Bond's account many years ago, I became deeply interested in the subject. There was never any doubt in my mind as to the correctness of his position. But even had there been, it was later put to rest by discovering that Lewis A. Armistead was actually born in New Bern; and, therefore, if indeed Armistead had gone farthest to the front at Gettysburg, it had to be a North Carolinian—not a Virginian! But if our friends in Virginia could not accept this evidence, then I would be forced to point out that the Union leader in command of Hancock's left flank, which bore the brunt of the assault, was none other than General John Gibbon of Mecklenburg County, North Carolina.

It must have been Gibbon's understanding of history, coupled with the generosity of spirit so common to North Carolinians, that prompted him to yield just enough ground, on that memorable third day, to satisfy the innate and almost insatiable yearning for historic eminence so common to Virginians.

Well, I can categorically report to the association that the battle of claims, which you so appropriately joined sixty-nine years ago, is now officially over. It was resolved within very recent times, and you won. No less an impartial authority than the Department of the Interior of the United States of America (the Union side, remember) settled the matter by erecting a marker at the upper wall on Cemetery Ridge which bears the caption "Pettigrew's Charge," with arrows clearly placing Pettigrew at the upper wall and Pickett forty paces behind. The work is done in brass lest, I presume, it be disfigured under cover of darkness by some overwrought claimants from the commonwealth.

But I enjoin the members of the association to accept this disclosure, not with elation, but with calm satisfaction in the knowledge that right does inevitably triumph. In the words of Colonel J. Bryan Grimes, "We would disdain to pluck one laurel from Virginia's brow—we love her still—but we say calmly to our beloved sister that she must pause and give us justice. We are worthy of our appropriate motto *Esse quam videri.*"

Although I wish to join the colonel in his calm but firm call for justice, I must say for the record, however, that North Carolina does not always insist upon primacy. In serving the cause of *The Lost Cause,* for instance, we readily admit:

That North Carolina troops were the last to lay down arms at Appomattox.

That the last major surrender of Confederate troops occurred on North Carolina soil at the Bennett House just outside of Durham on April 26, 1865.

That the last victory of Confederate arms was at Waynesville, North Carolina, on May 10, 1865, when the Indian legion, under the command of Colonel Will Thomas, surrounded and forced the surrender of Stoneman's raiders.

That the last Confederate general to surrender was General Stand Watie at Doaksville, Oklahoma, the old Choctaw capital, on June 23, 1865. His mother was Susannah Reese, a Moravian and a descendant of a well-known North Carolina family.

That the last major port to close was Wilmington, North Carolina, after the fall of Fort Fisher on January 15, 1865. For forty-eight hours Fort Fisher had withstood the heaviest bombardment in naval history up to that time. Fifty-three Union vessels, mounting 600 guns and firing at an average rate of over 1,000 shells per hour, were unable to force surrender of the defending garrison until 10,000 troops stormed the fort from the beach and flank.

And finally, that the last Confederate naval vessel to surrender was under the command of Captain James I. Waddell of Pittsboro, North Carolina. It was not until August, 1865, that he learned of the Confederacy's demise. And it was not until early November that he and his crew steamed into Liverpool, surrendered their vessel and walked off free men. It is with utter chagrin that I confess the name of the vessel. It was the *Shenandoah!*

If I have offended the historic sensitivities of any Virginians who may be among us this evening, I beg their forgiveness. I must confess, however, that it has been a joy and delight to brush away the dust of time and reopen this little vendetta with our sister state. In fact, I accepted this assignment with the thought that I might fire a few friendly broadsides north of the 36°30″ parallel and, at the same time, remind my fellow North Carolinians of the remarkable state in which we are privileged to live.

It is in the general context of both the past and the present that I wish to pursue further this matter of provincial pride and responsibility. For I profoundly believe that the future of these United States depends upon the measure of understanding and devotion that each of us, in word and deed, gives to the place of our birth and well-being.

The effective coordination of widely scattered peoples, with widely different environments, from widely different backgrounds, has been the genius of America. If time and circumstance were to erase these differences in motivation, culture, and outlook; if our federated system of state or provincial governments were ultimately to give way to nationalized uniformity in everything but name; then I say to you we will have lost our birthright. Without belaboring the point, there is every indication we are moving in that direction.

Unquestionably, there has been a substantial erosion of local autonomy. No facet of our lives has been left untouched. Whether civil, social, or economic, the depth of federal penetration is matched only by its breadth. While much can be attributed to justifiable circumstances involving national interest, honesty compels us to recognize that much can also be attributed to dereliction of responsibility at the local level. We the people, supposedly the champions of so-called states' rights, have not been true and loyal defenders.

We have overlooked the key to our constitutional heritage, namely, a government of balance that can only be preserved through the exercise of enlightened and responsible citizenship. The blame lies with us, not with our representatives in government, because their actions are largely expressive of the will of the people, or the lack of it.

And that is precisely why an understanding of state and local history can be so meaningful in terms of individual motivation and responsibility The history of every state, in every region—the East, the Southeast, the Midwest, the Southwest, the Far West—has its priceless record of sacrificial courage and constructive endeavor. Obviously, we are the modern recipients of all that has gone on before. What we are today is in almost exact proportion to who they were and what they did in the yesterdays of our past. Now if we can look back with understanding and pride, certainly we have every reason to look forward with a deep sense of obligation. No North Carolinian can fairly argue this premise; for no citizen of any state has more reason to honor his past, by daily discharging his duty to the present, than does one born and bred in this fair land.

The Old North State means many things to many people. It is a long sweep of territory from Murphy to Manteo, from the Great Smokies to the Blue Ridge, down to the Piedmont and on to the East, to the Coastal Plain country and, finally, to the Tidewater. Each section—its people, its traditions, its economy, its politics—has been strongly influenced by its physical environment; and each has made a distinctive contribution to the overall development of our great state. It has also been a long sweep of time since 1663, the year of our provincial birth, and the vicissitudes of fortune have been many and great. But there have been certain relatively unbroken threads of consistency running through our history which have, in my judgment, set North Carolina apart as something very special to contemplate and revere.

We may not have had our Washingtons, Jeffersons, and Franklins, but our people did place Governor William Tryon under house arrest in 1766, seven years before our friends in Massachusetts ever thought of the Boston

Tea Party. North Carolina did enact the Halifax Resolves on April 12, 1776, but was next to last, followed only by Rhode Island, to adopt the Constitution in 1789. North Carolina was also next to last, followed only by Tennessee, to withdraw from the Union in 1861. Unhappily, therefore, we were too late getting into the Union to vote for our first president, George Washington, and too late getting out to vote for Jefferson Davis, the first and only president of the Confederacy. There were, naturally, divided loyalties in the Revolutionary and Civil War periods, but the actions of our people, as expressed through their elected representatives, bespoke a popular will deeply concerned with an appropriate balance between the rights of individuals and their collective responsibilities to government.

There is a consistency here, in my judgment, that has characterized North Carolina for generations. This desire to avoid extremes, to seek a middle ground wherever possible and to act generally with prudence is, I believe, the reason why we have always been considered a land of moderation. We are the only state in the nation that still refuses to grant veto authority to the governor. We are one of the few states that does not permit the governor to succeed himself, and perhaps the only state that gives to the General Assembly veto power over the rule-making authority of the state supreme court. Here, again, is a consistency of principle unique to North Carolina. It goes back to colonial times. Our people are still sensitive to the possible abuse of executive and judicial privilege, and therefore wish to endow only their duly elected representatives with supreme authority over their lives and property.

At least, that is the way I read North Carolina history, and that, of course, is the beauty of being a lay student of history. Not burdened by professional responsibility, I can exercise a certain license not given the academician. Since history, at best, derives from human interpretation of human thought and action, it lends itself to something less than completely dispassionate discourse. By momentarily lifting the veil of humility it may be that I shall exploit this freedom, but a deep sense of pride in our past does suggest to me that we concentrate on those past achievements, and even failures, that give meaning to the present and guidance to the future.

Within these broad limitations I shall make certain assertions, lift out of context, expand, and condense as it may suit my purpose—my purpose being to emphasize that North Carolina is a great state on the move, not without problems but with a record of past performance that augurs well for the future. It all started, I believe, in 1835. That was the year the Constitution of 1776 was amended. The western part of North Carolina had long suffered from the political domination and neglect of the East. With inadequate means of transportation and little trade, the economic development of the Piedmont had been painfully slow. In fact, for all of North Carolina the period between 1815 and 1835 has been characterized as the Rip Van Winkle era, for growth of any kind was negligible. The state lay dormant, the Eastern leadership was satisfied with the status quo. The West was frustrated and restless. Only immense popular pressure from the Piedmont and the West finally forced summoning of the Constitutional Convention that led to reform and more representative state government.

NORTH CAROLINA

AREA

[Thousands of acres]

Area	Acres
Land	31,267.9
Water	2,467.8
Total	33,735.7
Major categories of land:[1]	
Forestry (1964)	20,027.3
Cropland and pastures (1971)	7,815.8
Recreation (1971)	2,179.3

[1] Categories overlap.

HIGHWAY MILEAGE (JANUARY, 1972)

Type	Miles
Primary:	
Rural	11,767.19
Municipal	1,547.88
Secondary:	
Rural	58,964.70
Municipal	2,088.68

POPULATION

Year	Total population	Migration (percent)	Natural increase (percent)
1950[1]	4,061,929		
1960[1]	4,556,155	−8.1	20.2
1965[2]	4,822,568	−2.01	7.86
1970[1]	5,082,059	−1.01	6.39

[1] April 1.
[2] July 1.

PER CAPITA INCOME

Year	Amount
1958	$1,420
1962	1,732
1966	2,277
1970	3,208

VOTERS' REGISTRATION (APRIL 1972)

Party	Number
Democrat	1,642,603
Republican	481,877
Other	75,456
Total	2,199,936

AGRICULTURE

Year	Acres of harvested and idle cropland	Farm population (Jan. 1)	Estimated farm income
1960	6,571,330	1,268,162	NA
1961	6,538,559	1,178,473	$1,188,047,064
1962	6,356,736	1,107,051	1,274,195,414
1963	6,276,872	1,040,512	1,317,087,587
1964	6,217,682	1,010,696	1,386,376,146
1965	6,203,137	963,878	1,388,513,573
1966	6,286,095	930,717	1,481,498,195
1967	6,317,589	935,594	1,510,780,586
1968	6,109,411	918,368	1,471,791,154
1969	6,007,789	878,472	1,712,781,656
1970	6,093,174	841,550	1,743,405,095
1971	5,981,789	809,134	1,674,014,336

EDUCATION—ENROLLMENT

School years	Public schools	Community colleges (fall)	Higher education undergradation (fall)	
			Public	Private
1960–61	1,123,829	NA	NA	NA
1961–62	1,141,641	NA	NA	NA
1962–63	1,162,171	NA	NA	NA
1963–64	1,186,243	NA	NA	NA
1964–65	1,201,139	NA	NA	NA
1965–66	1,204,351	NA	NA	NA
1966–67	1,208,112	NA	43,520	24,324
1967–68	1,218,188	67,683	46,570	24,337
1968–69	1,220,636	93,169	49,145	24,208
1969–70	1,217,024	117,562	52,464	22,793
1970–71	1,208,021	144,828	57,408	22,753
1901–72	1,197,797	150,552	61,721	24,095

MOTOR VEHICLES

Year	Auto and truck registrations	Accidents	Persons injured	Fatalities
1960	1,704,203	59,734	26,953	1,226
1961	1,771,913	60,844	34,438	1,258
1962	1,838,693	65,338	37,404	1,325
1963	1,922,792	72,810	42,666	1,386
1964	2,011,682	82,070	49,128	1,584
1965	2,136,003	86,839	50,051	1,635
1966	2,286,369	97,301	52,119	1,724
1967	2,402,363	101,615	54,433	1,751
1968	2,534,166	109,383	55,133	1,863
1969	2,635,751	120,493	58,610	1,805
1970	2,742,673	124,784	58,622	1,763
1971	2,915,037	132,986	61,370	1,835

EMPLOYMENT—LABOR FORCE

	Total employment	Manufacturing	Non-manufacturing	Public administration	Agricultural	Other	Rate of unemployment (percent)	Average wkly. earnings per worker	High school graduates entering labor force (percent)
1963	1,795,000	541,100	573,385	184,350	269,400	226,765	5.2	$76.36	48.1
1964	1,828,600	563,150	596,820	190,350	245,800	232,480	4.8	80.18	46.9
1965	1,886,700	597,700	629,800	196,500	227,800	234,900	4.2	83.99	44.4
1966	1,973,600	645,710	679,660	207,530	208,900	231,800	3.2	88.51	42.6
1967	2,010,100	665,980	701,320	217,100	197,050	228,650	3.4	92.77	43.4
1968	2,064,200	694,060	736,690	226,950	178,200	228,300	3.2	100.09	41.3
1969	2,159,600	722,050	773,580	254,370	172,400	237,200	2.9	106.45	40.1
1970	2,195,200	724,000	797,900	267,900	166,200	239,200	*3.7	112.90	38.0
1971	2,223,200	723,170	825,130	267,200	163,700	244,000	*3.9	120.36	38.0

INDUSTRY—NEW AND EXPANDED

Calendar years	Investment (thousands)		Employees	
	New	Expanded	New	Expanded
1960–64	$723,908	$806,810	83,936	68,210
1965–69	1,491,969	1,523,401	85,672	75,953
1970–71	580,884	753,320	27,702	20,307
Total	2,796,761	3,083,531	197,310	164,470

TOTAL TRAVELERS' EXPENDITURES

[In thousands]

Year	Amount
1963	$467,000
1965	560,000
1968	696,000
1969	752,000
1970	802,000
1971	850,000

SALES AND USE TAX GROSS COLLECTIONS AND GROSS RETAIL SALES

Fiscal	A. Total		B. By business groups				
	Sales and use tax	Retail sales		Sales and use tax		Retail sales	
				Fiscal 1964–65	Fiscal 1971–72	Fiscal 1964–65	Fiscal 1971–72
1960–61	$90,097,652	$5,303,178,801	1 percent retail sales	$3,008,072.50	$4,505,793.44	$309,493,690	$463,311,040
1961–62	131,984,135	6,449,162,332	1½ percent auto and planes[1]	11,011,976.83	30,824,210.83	754,799,081	1,584,650,498
1962–63	149,350,510	6,768,429,653	Apparel	6,711,182.51	11,438,043.76	236,875,111	410,584,309
1963–64	161,049,132	7,118,267,158	Automotive	15,877,815.37	26,707,327.13	1,351,687,727	2,463,849,782
1964–65	173,479,606	7,684,406,809	Food	44,340,772.37	84,106,667.16	1,614,360,270	3,064,802,288
1965–66	193,470,413	8,548,507,666	Furniture	10,707,199.40	16,627,316.65	426,997,147	668,324,809
1966–67	208,806,689	9,126,250,732	General merchandise	31,165,769.61	63,345,327.42	1,345,939,992	2,772,180,149
1967–68	222,636,022	9,780,612,276	Building materials	18,642,046.44	34,322,674.63	745,857,700	1,411,250,402
1968–69	248,078,668	10,938,485,772	Unclassified group	17,771,122.21	31,958,212.32	898,936,091	1,640,865,562
1969–70	273,161,758	11,731,451,765	Use tax—1 percent and 3 percent	14,097,177.32	31,551,307.50		
1970–71	294,676,686	12,653,965,346	Licenses—Wholesale and reg	146,471.85	150,663.50		
1971–72	335,537,544	14,479,818,839					

[1] See explanatory notes in the introduction.

Note: This recapitulation chart from "Profile of North Carolina Counties" (Raleigh: Office of the State Budget, Department of Administration [3d edition], January 1973) outlines North Carolina's economic and social development for the approximate period 1960 to 1971.

That was the beginning of modern North Carolina. With the advent of the Whig party to challenge the Democrats, the people were given a clear choice between progress and stagnation. Although the Whig star was to rise and fall quickly, the two parties provided an affirmative response to the popular will for social and economic progress. For North Carolina it proved to be an unprecedented change in direction, and the next twenty-five years were to witness substantial growth and improvement—in transportation, manufacturing, agriculture, public education, and in humanitarian, legal, and fiscal reforms.

Almost from a standing start, I revel in the thought that in the short space of only twenty-five years, from 1835 to 1860, North Carolina developed a remarkable transportation system—involving almost 900 miles of state-supported railroad construction which, in 1841, included the longest railroad in the world, from Wilmington to Weldon, a distance of 161 miles—and a system of privately owned plank road which included "the longest plank road ever built anywhere in the world," from Fayetteville to Bethania, a distance of 129 miles. It was this emphasis upon improved transportation that set the stage for rapid agricultural and industrial development and, in turn, set the stage for educational and fiscal reform. Again, I revel in the knowledge that by 1860 the North Carolina system of public education was considered the best in the South, and in the fact that the first colored goods mill south of the Potomac was built at Alamance in 1853. Nor should I fail to remind you that prior to the gold rush of 1849, North Carolina was the leading gold-producing state in the nation.

Before concluding this abbreviated account of antebellum achievement, I am constrained to mention a little-known incident that had a far-reaching impact upon our state. It was tne passage of the Distribution of the Surplus Act of 1836, whereby part of the federal surplus, and I emphasize the word *surplus*, would be distributed to the states on the basis of congressional representation. North Carolina's share amounted to $1,433,757.39. After much debate, and largely due to Whig insistence, the General Assembly approved a plan that designated all but $100,000 for investment in bank stock, railroad securities, and internal improvements. These investments were to be assigned to the Literary Fund for the ultimate support of public education. The state still receives dividends from some of its early railroad investments.

More importantly, however, this was landmark legislation in the sense that the state, for the first time, embarked upon a program of positive action in support of the economic, social, and cultural well-being of her people. Since then, our basic philosophy of state government and state responsibility has changed little. Except for private capital in lieu of state capital, our economic system has continued to prosper and expand with state encouragement. And, in the dark days of the 1930s, when our educational and highway systems were imperiled, the state did not falter in assuming her responsibility. I cannot look back upon any period in our history with greater satisfaction than that brief quarter-century immediately preceding the Civil War; for it was then that our people, through the medium of state government, actually engineered their own industrial and social revolution. That philosophy of responsible state action has characterized North Carolina ever since.

The Civil War all but destroyed our surging progress, but here again the state stood up magnificently. Loathe to leave the Union, ironically she suffered the most. With one ninth of the population of the Confederacy, she committed to service more than 125,000 troops or approximately one sixth of all Confederate soldiers. Of this number, over 40,000 never returned. North Carolina was the only state to contract with the Confederate government to supply her men with the necessary essentials of war. She was, therefore, the only state in the Confederacy to operate her own blockade-running vessels which plied irregularly between Wilmington, the Bahamas, and Nova Scotia. Until the fall of Fort Fisher on January 15, 1865, the lifeline to Lee's army was through the port of Wilmington.

What the war failed to destroy, the Reconstruction and twelve years of military rule completed. North Carolina's experience was not unlike that of her sister states. What should have been a period of reconciliation was one of bitterness and despair. Both people and institutions were corrupted; but gradually the congressional desire for retribution began to wane; the iron rule of the military was relaxed, and provincial leadership was allowed to reassert itself. North Carolina then began the long, painful climb back to a position of strength as a proudly contributing member of the Union or States.

And it is here that I wish to proclaim my abiding respect for that generation of men and women who had to take up the burden around the turn of the century. Of necessity, they had to be strong in faith and vision; otherwise, they would have left the state. But how desolate the present and future must have seemed. With a population of almost 2 million, the economy for the year 1900 provided only about $89 million in agricultural output, $94 million in the value of manufactured products, and only 8 million kilowatt hours of electric energy. The average annual industrial wage in 1900 was $196.52. And total bank deposits, both state and national, did not exceed $18 million. This, then, was the economy which our mothers and fathers inherited seventy-three years ago. Since then we have witnessed a remarkable phenomenon, the telescoping of the three stages of economic development—from agriculture, to industry, to the services—into the space of one lifetime. North Carolina has not been alone; other areas of the South can also claim significant progress, but none can match that of our great state.

Through it all has been the steadying, leading hand of state government. Whether in prosperity or depression, our people have been blessed with good government; and it is this continuing desire by the people for good government that holds such promise for the future. In the management of its fiscal responsibilities, the state has not incurred a deficit since 1931. Our people bear one of the highest state per capita tax rates in the nation, as related to per capita income, in order that three fourths of our total general fund income may be allocated to public education. Nor have we neglected our cultural responsibilities. No other state in the nation can claim a state-supported symphony as well as a state-supported school of the arts. Furthermore, North Carolina was the first state to appropriate substantial public funds for the acquisition of paintings and other objects of art before a building to house these and future collections was provided.

And yet with all our progress, we have many problems and, of course, that is good. They range, even now, from inadequate support for public education to comparatively low per capita income, to environmental problems that cry for solution. I sometimes think that we fail to grasp the true relationship between people and events. We must recognize that it took North Carolina 210 years, from 1660 to 1870 to gain her first million in population, and only 40 years to gain her second million. Since 1910 we have averaged about 1 million gain in population every 20 years—and now stand in excess of 5 million, with every indication that the rate of acceleration will continue to increase.

As we look to the future, it is on this one point we must focus. People breed problems, and problems breed events. It is now clearly evident, at least in my judgment, that problems and events are developing almost at a faster rate than is our capacity to handle them. In the old days, speed of governmental response was not as urgent as today. Events moved more slowly then; problems and their solutions seemed to evolve gradually. But today it is a different story. No state administration can afford to temporize. Politics as usual must give way to a determined, intelligent, and persistent effort on the part of government to lead, not follow, events. And government must have the helping hand of its lay leaders in all walks of life.

And therein lies the genius of North Carolina. No state can compare when it comes to commanding the loyalty of her citizens, either individual or corporate. It has been so as long as any in this audience can remember. It is because our state and her people really belong to one another. And it all began in 1835, when the East grudgingly admitted the West into a state partnership that would some day excel all the rest. Having reluctantly yielded to temptation in these assertions, for which I beg your understanding and indulgence, may we now restore the veil of provincial humility as we wend our lonely way among the mighty.

JUSTICE—FOR ALL AMERICANS

Mr. CHURCH. Mr. President, if we have learned one thing from the Watergate chapter of our history, it is that Americans will not tolerate one law for those at the top and another for those at the bottom. Ironically, our American system of justice today does not conform to this belief—it allows protection under the laws of this land provided one has the ability to pay attorney's fees.

I believe that the poor people in America have the same right to have their story told in the courts as do the wealthy. To this end, I support the establishment of an Independent Legal Services Corporation to provide legal assistance in civil cases for the poor. The bill we have before us does just that. It releases the legal services programs of the Office of Economic Opportunity, expands them, and frees them of politics.

In Idaho, Idaho Legal Aid Services, Inc., has been able to serve only 15 of our 44 counties through the funds they received under the Economic Opportunity Act. Even with this limited funding though, the 10 attorneys employed in the program served over 2,900 persons in 1973, and the estimate for 1974 is projected at over 3,600. With the adoption of an Independent Legal Services Corporation, Idaho could at long last provide her poor with equal protection under the laws of our land, and I urge my colleagues to vote to support this worthy program.

Two Idaho newspapers have recently carried exceptionally fine editorials supporting the bill before us, and I ask unanimous consent that they be printed in the RECORD. I commend these to the attention of my colleagues.

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

[From the Idaho Statesman, May 31, 1974]

THE LEGAL SERVICE BILL

Americans can be justifiably proud of a legal and judicial system that allows any citizen access to the law and the courts to right wrongs or seek justice.

The trouble is, that a lot of people are in practice denied access to the system. They can't afford legal services.

To correct that situation, a legal services system was created as part of the old War on Poverty. Now Congress has approved legislation to extend the service, with a legal service corporation.

The legislation had to overcome tough opposition. It is loaded with "thou shalt nots" that limit the kind of legal actions that can be filed. It restricts political activity by legal service attorneys.

This program has opposition in part because of its success. Lawsuits have been filed on behalf of consumers, changes urged before utilities commissions, information presented to legislative committees.

Now there is concern that President Nixon may veto the legal services bill. Pressures for a veto is expected from some of the conservative congressmen whose support may be important in impeachment proceedings.

It would be tragic if this successful effort to open the door of the legal system to lower-income Americans is lost to impeachment politics.

This legislation would prohibit assistance for segregation questions, for abortion or for Selective Service issues. The service is limited to civil matters.

In Idaho the legal aid service has offices in Boise, Caldwell and Lewiston, serving 15 of the 44 counties. Much of the assistance is in domestic relations, landlord-tenant disputes, public assistance, consumer transactions and debt problems. Part of the service is counseling, as well as legal action.

Idaho Legal Aid was successful in getting the Public Utilities Commission to change the cutoff policy on utility service. Its efforts sometimes benefit all consumers, not just the poor.

Legal services should be available to people of all income levels. This bill goes at least part way in making them available.

[From the Lewiston Morning Tribune, May 27, 1974]

IMPEACHMENT POLITICS

The name of the game on Capitol Hill these days is impeachment politics and President Nixon is showing signs of playing it of late with a bill to establish a legal services corporation.

The bill in question would establish a corporation to provide low-income people with legal assistance in civil, non-criminal actions. It would replace the existing legal services program operated by the floundering federal Office of Economic Opportunity.

The corporation concept was first introduced to Congress three and a half years ago. Dozens of bills to establish an independent corporation free of political influence have been hashed over since then. Only one ever made it through both houses of Congress. That was in 1971 and the bill was vetoed by Nixon.

Last spring, Nixon made his own proposal. In a message to Congress asking for such a corporation, he said, "Legal assistance for the poor, when properly provided, is one of the most constructive ways to help them to help themselves."

Early this month, House-Senate conferees reached agreement on a compromise bill which includes everything the President asked for in his message. The bill was quickly passed by the House, 227 to 143, and is expected to be approved by the Senate next week.

Nixon wanted the corporation to deny a lawyer to anyone whose poverty resulted from refusal or unwillingness to seek or accept a job; bar corporation attorneys from participating in political activities of any sort, including voter registration drives, at any time; deny use of corporation funds, directly or through attorney time, to influence passage or defeat of any federal, state or local laws, and deny free legal aid to persons under age 18 without the written consent of at least one parent or guardian or one appointed by a court, except in child abuse or custody cases.

He got all that and more.

The compromise bill prohibits corporation attorneys from participating in any cases involving desegregation, abortion or selective service (Including desertion.) It includes a requirement that the corporation pay the court costs and legal fees of a defendant who is sued and wins his case, if the court finds that the legal services lawyers had acted improperly.

There's a requirement that legal services projects give preference to local lawyers when hiring staff.

These and a dozen other provisions are designed to tone down the program and make it more palatable to moderates and conservatives. The bill is being supported by liberals, even with all the restrictions, because it's the only game in town.

The bill would mean an end to the scramble for financing that has plagued the program since it was established by OEO nine years ago. Legal Services has operated on a budget of $71.5 million for three years. The compromise bill would give it a fiscal 1975 appropriation of $90 million and $100 million in fiscal 1976.

The bill is opposed by a conservative hard core that takes issue with concept of legal services. Legal services lawyers have won too many cases that have advanced the rights of welfare recipients. The conservatives have been appalled at government financing of legal actions resulting in, for instance, removal of residency requirements for welfare payments.

It's this group that Nixon is going after in an effort to duck impeachment in the House or conviction in the Senate. The word from Capitol Hill is that Nixon will veto the corporation bill in return for the right votes on impeachment or conviction.

There are several ironies in this. One of them is that the average cost per client served by the Legal Services program is roughly $30. Nixon's Watergate-related legal bills, all footed by the taxpayers, are expected to hit $1 million by the end of the year.

One million dollars would provide quite a bit in the way of legal services for low-income people.

A veto of this corporation bill would be a political travesty, a hob-nailed dance on the backs of the poor at the expense of equal justice.—C.T.

TRUTH IN SAVINGS

Mr. HARTKE. Mr. President, there is a growing awareness in this country that consumer awareness is lacking in the savings market. Billions of dollars are placed into savings institutions each

year, and much of that comes from middle-income families. At the present time, there is far too much confusion and ignorance about the earnings policies of savings institutions.

My proposal, the Consumer Savings Disclosure Act, S. 1052, is designed to reduce that confusion and ignorance.

Mr. President, I ask unanimous consent that an article by Margaret Daily in the April 1974, issue of Better Homes and Gardens, which discusses this subject, be printed in the RECORD.

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

WHAT'S THE BEST PLACE FOR YOUR SAVINGS

A savings account has always been considered a safe investment, but until recent years that was its only advantage. Depositors in the 1930s had to be satisfied with annual interest as low as ½ percent, and in 1960, three or 3½ percent was about as much as you could expect. Today, savings interest rates stand at all-time highs: five percent is common, and yields running as high as 7½ percent and even more are available through special long-term arrangements.

In the light of these new rates, speculative investments may no longer look so attractive. When you put money into stocks or real estate, you get no promises. You can hope for big profits through capital gains, but you must also face the possibility of losing money. You might even lose the whole investment. Savings, by contrast, offer two gorgeous advantages that look all the better as interest rates climb:

1. *Safety of capital.* As long as your money is in a properly chartered, regulated, and insured savings institution, you are almost certain never to lose it. Even if the institution fails, your money up to $20,000 (a maximum that soon may be raised to $50,000) will be refunded by one of several agencies, such as the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC). No bank or savings and loan association ever guarantees to maintain an interest rate indefinitely, and today's high yields could drop in future years—but the guarantee you *do* get is that you can't lose money.

2. *Liquidity.* You can get to your money in most savings accounts fast in an emergency. If you invest in real estate, you must find a buyer before you can get your money back out. Stocks are more liquid—you can sell most stocks or mutual fund shares instantly just by phoning a broker—but if an emergency arises at the wrong time, you could be forced to sell at a loss.

There are disadvantages to a savings account, too, of course. For one thing, it offers no hedge against inflation, in the sense that the dollars you put in it may continue to shrink in buying power. For another, the interest you earn is taxable as ordinary income. Still, today's high-yield savings deals seem attractive to many middle-income families looking for sound, safe ways to build college, retirement, vacation, and emergency funds.

WHAT SHOULD YOU LOOK FOR?

Interest rates are high on savings accounts these days because the savings institutions want your money badly. They are competing for it. Each wants you to think it offers a better deal than its neighbors. Amid all the hoopla, how can you tell where your money really belongs?

There are four main types of institutions that pay interest on savings. They are commercial or "full-service" banks, mutual savings banks (found mainly in the Northeast), savings and loan associations (S&Ls), and credit unions. Each has a different financial structure, operates for different purposes, and is regulated by different state and federal laws. Most of the differences needn't concern you. As a matter of fact, many could well vanish in the near future. Congress in 1974 will consider sweeping reforms of the whole banking structure, proposed by a special commission. The reforms would eliminate many old restrictions—for example, laws that now forbid savings and loan associations and mutual savings banks to offer checking accounts or credit card services.

TABLE I.—WHAT THE DIFFERENT INTEREST RATES AND COMPOUNDING METHODS CAN MEAN

[Suppose you deposit $100 on the 1st of each month for 5 years. How much will you have at the end of the 5th year? It depends not only on the interest rate, but also on the method of compounding. In dollars]

	Percent			
Interest rate	4½	5	5½	6
Simple interest (not compounded)	6,562.50	6,625.00	6,687.50	6,750.00
Compounded:				
Annually	6,589.45	6,658.37	6,727.99	6,798.32
Semiannually	6,670.34	6,750.02	6,830.82	6,912.70
Quarterly	6,711.76	6,797.02	6,883.77	6,971.74
Monthly	6,739.73	6,828.95	6,919.65	7,011.76
Daily	6,740.52	6,830.03	6,921.06	7,013.69
Continuously	6,753.07	6,843.25	6,936.11	7,030.25

Whatever the reforms, what concerns you is how much your money can earn in a given institution, under what circumstances. There are three basic factors to consider: the rate of interest, the yield, and the timing with which interest is computed.

INTEREST

The main determinant of how much your money can earn is the *interest rate*. Laws now limit the rates that various institutions may pay on various kinds of savings plans. (These ceilings would be phased out, too, if the proposed reforms become law; however, there is considerable sentiment against this possibility among many of the savings institutions.)

In general, the lowest rates are paid by commercial banks on regular passbook accounts. (The S&Ls and mutuals offer a bit more.) The advantage of such an account is its liquidity, plus the array of services that a commercial bank offers. You can keep a checking account at the same bank, for instance, and ask to have a stated amount transferred to savings each month—a painless way to save. You might also be attracted to this kind of account if you foresee that you'll want to dip into savings occasionally for small lumps of money, or if you're worried about a sudden emergency need.

If you feel you don't want to touch your savings for several years, you can get higher interest rates at most institutions by committing money in various longer term deals. In some of them you agree to give the institution a certain amount of notice—60 or 90 days, for instance—before withdrawing cash.

Another high-interest arrangement is the so-called *"certificate of deposit,"* or CD, which works very much like a savings bond. It matures in a stated number of years—most commonly one to four. You either pay a penalty for cashing it early, or you absolutely can't cash it early. (In a dire emergency, of course, you can always borrow against it.)

The very highest interest rates now offered to ordinary savers are carried on CDs that mature in four years or longer and are sold in denominations of $1,000. Commercial banks are allowed by law to offer 7¼ percent on these CDs; the S&Ls and mutuals can offer 7½ percent. (*Note:* These ceilings put the lid on the "wild card" CDs allowed for a time last year. On these, interest rates were set by competition, not legal limitation, and some ranged as high as nine or ten percent. If you bought such a CD before October 31, the deal is still valid; however, the rates on new CDs were curbed after that date.)

YIELD

The interest rate isn't the only figure you should look at when shopping for a savings haven. Still more important is the annual *yield*. Senator Vance Hartke of Indiana thinks many financial ads have deliberately tried to confuse savers about the difference between those two terms, and his Truth-in-Savings Bill, presently under federal study, would require banks and other institutions to make the difference clear.

The yield, also called the *"effective rate,"* is the actual amount of money you earn in a year when your interest is *compounded*—that is, when you earn interest on interest. Suppose the rate is six percent a year, for instance, and suppose it's compounded monthly. The savings institution would calculate it at ½ percent per month (6 divided by 12), and would compute each month's interest on the principal plus all the previous month's earnings. Thus a monthly compounded rate of six percent would produce a yield of about 6.17 percent per year.

The more often interest is compounded, the higher goes the yield. Table I, on the preceding page of this article, shows that this can make some difference over a few years, even with a relatively modest savings program.

TIMING

You also should ask questions about *when interest starts and stops*. This can affect the yield drastically.

First, find out when interest starts. Some institutions pay interest only on money that has sat in an account from the beginning of an interest-compounding or *conversion* period. If interest is compounded monthly, for instance, and if you deposit money on the fifth of a month, that money doesn't start earning interest until the first of the next month.

By contrast, other institutions offer a grace period. In a typical deal of this kind any money you deposit by the tenth of a month will earn interest for the full month, exactly as though it had been deposited on the first. This could be important to you if you plan a regular savings program and if, for example, your salary check only comes through on the 15th of each month.

If your savings account is an in-again-out-again affair, you'll want to be especially wary about the various methods of stopping interest when money is withdrawn. Savings institutions handle this situation in different ways and you should be sure to get all the particulars before opening an in-and-out account anywhere. (Don't let just the ads sell you; ask questions, too.) From your viewpoint, the worst and best methods are:

Low balance: Interest is paid only on the smallest amount of money that was in an account during a conversion period. For instance, suppose you have an account on which interest is credited quarterly. There's $5,000 in it, let's say. Late in December, just before the last quarter ends, you withdraw $2,500. When the interest is credited on December 31, you earn interest only on the $2,500 remaining in the account—even though the account contained twice that much money through most of the quarter.

Day of deposit to day of withdrawal is your best bet because every dollar in your account earns interest for every day it actually sits in the account. In the example above, the $2,500 you withdrew would have earned interest until the day you walked out of the bank with it. If that day was December 15, for example, the withdrawn money would have earned about five-sixths of the quarterly interest.

Senator Hartke is particularly concerned about interest-stopping methods and the tendency of many institutions to explain

them fuzzily or downright misleadingly. He cites one hypothetical in-and-out account whose yield, over a six-month period, could vary all the way from $29.75 to $75.30—depending solely on which interest-stopping computation the particular institution uses for its figuring.

Note: In late 1973, the Federal Reserve Board began investigating the desirability of standardizing the methods of how money is earned in savings accounts. For instance, one suggestion would be to make interest the only variable. Whatever comes of these explorations, it is quite possible that some succint standardization will go into effect soon, thus making it that much easier for you to compare various savings vehicles.

HOW CAN YOU SAVE REGULARLY?

For some savers, the worst problem of all is self-discipline. "People often ask if we know of any magic discipline medicine," says an American Bankers Association official. "We don't. But we do have two suggestions that seem to help most savers. First, set a goal for yourself—so much money by such-and-such a year. Second, save toward it regularly. Make a routine of it. Your savings 'payment' should be a monthly automatic outlay just like your rent or mortgage payments." Table II shows how some fairly hefty sums can be piled up with surprisingly small monthly deposits.

You can, if you like, ask banks and others to help you discipline yourself. One of the easiest saving methods is the regular, automatic transfer from checking to savings account. You decide on the amount and the frequency, you sign an authorization form, and the bank does the rest. You can achieve similar results by asking your employer to put chunks of your pay into U.S. savings bonds (current yield; six percent if held to maturity). Some companies also will arrange to deposit percentages of pay into an incompany credit union, which often pays a higher rate of return on savings than do other savings institutions.

TABLE II.—HOW LONG DOES IT TAKE TO SAVE HOW MUCH? TAKE 3 TYPICAL SAVINGS GOALS—$5,000, $10,000, AND $20,000. HOW MUCH SHOULD YOU DEPOSIT EACH MONTH TO REACH THOSE GOALS IN VARIOUS SPANS OF TIME AT VARIOUS INTEREST RATES?

To save this much in this length of time	Deposit this much per month at these rates of interest compounded monthly			
	4½ percent	5 percent	5½ percent	6 percent
$5,000:				
in 1 year	$408.14	$407.20	$406.27	$405.33
in 5 years	74.47	73.52	72.59	71.66
in 10 years	33.07	32.20	31.35	30.51
in 15 years	19.50	18.71	17.94	17.19
in 20 years	12.88	12.11	11.45	10.82
$10,000:				
in 1 year	816.06	814.26	812.46	810.66
in 5 years	148.70	146.90	145.10	143.33
in 10 years	65.93	64.26	62.63	61.02
in 15 years	38.81	37.29	35.81	34.39
in 20 years	25.59	24.22	22.90	21.64
$20,000:				
in 1 year	1,632.12	1,628.52	1,624.92	1,621.32
in 5 years	297.41	293.79	290.21	286.66
in 10 years	131.86	128.52	125.25	122.04
in 15 years	77.61	74.58	71.63	68.77
in 20 years	51.18	48.43	45.80	43.29

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the pending business, which is S. 3355.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily.

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

ACCESS TO PSYCHOLOGISTS AND OPTOMETRISTS UNDER FEDERAL HEALTH BENEFITS PROGRAM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 929, S. 2619, so that it be the pending business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2619) to provide for access to all duly-licensed psychologists and optometrists without prior referral in the Federal Employee Health Benefits Programs, reported from the Committee on Post Office and Civil Service with an amendment to strike out all after the enacting clause and insert:

That section 8902 of title 5, United States Code, is amended by adding at the end thereof the following:

"(j) When a contract under this chapter requires payment or reimbursement for services which may be performed by a clinical psychologist or optometrist, licensed or certified as such under Federal or State law, as applicable, an employee, annuitant, or family member covered by the contract shall be free to select, and shall have direct access to, such a clinical psychologist or optometrist without supervision or referral by another health practitioner and shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. The provisions of this subsection shall not apply to group practice prepayment plans.".

SEC. 2. The amendment made by this Act shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished senior Senator from Mississippi, the chairman of the Committee on the Judiciary, be recognized without any time being taken out of the bill under consideration.

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

RESOLUTION PERMITTING SENATOR TUNNEY TO APPEAR AS A WITNESS IN U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Mr. EASTLAND. Mr. President, I send to the desk a Senate resolution and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 356) providing permission for Senator JOHN V. TUNNEY to appear as a witness in the U.S. District Court for the District of Columbia.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. EASTLAND. Mr. President, this is an original resolution from the Committee on the Judiciary granting leave to Senator JOHN V. TUNNEY to appear as a witness before the U.S. District Court for the District of Columbia, to testify in the case of United States against Howard Edwin Reinecke (Criminal No. 74–155).

Senator TUNNEY has been subpenaed to appear as a witness before said district court to testify in the Reinecke case.

The resolution states that it is the sense of the Senate that by virtue of the provisions of the Constitution of the United States, that court has no authority to compel the attendance of the Member of the Senate as a witness before that court during his attendance at any session of the Senate.

The resolution further states that under the Standing Rules of the Senate, no Senator may absent himself from the service of the Senate without leave of the Senate.

The resolution then provides that Senator TUNNEY is granted leave to appear as a witness in this case at a time when the Senate is not in session or at a time when Senator TUNNEY determines that such appearance will not interfere with his duties in the Senate.

Mr. President, I ask that the Senate favorably consider this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 356) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 356

Whereas Senator John V. Tunney has been subpoenaed to appear as a witness before the United States District Court for the District of Columbia, to testify in the case of United States against Howard Edwin Reinecke (Criminal No. 74–155);

Whereas it is the sense of the Senate that by virtue of the provisions of the Constitution of the United States, that court has no authority to compel the attendance of any Member of the Senate as a witness before that court during his attendance at any session of the Senate; and

Whereas, under the Standing Rules of the Senate, no Senator may absent himself from the service of the Senate without leave of the Senate: Now, therefore, be it

Resolved, That Senator John V. Tunney is granted leave to appear as a witness before the United States District Court for the District of Columbia in the case of the United States v. Howard Edwin Reinecke (Criminal No. 74–155) at a time when the Senate is not in session or at a time when Senator Tunney determines that such appearance will not interfere with his duties in the Senate.

SEC. 2. A copy of this resolution shall be transmitted to such court.

RESOLUTION PERMITTING STAFF EMPLOYEE AND PARLIAMENTARIAN OF THE SENATE TO APPEAR AS WITNESSES IN THE CASE OF UNITED STATES VERSUS REINECKE

Mr. EASTLAND. Mr. President, I send to the desk a Senate resolution and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 357) to permit Peter Stockett, Jr., chief counsel and staff director of the Committee on the Judiciary, and Floyd M. Riddick, Parliamentarian of the Senate, to appear as witnesses in the case of United States against Reinecke.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. EASTLAND. Mr. President, I report an original resolution from the Committee on the Judiciary, granting permission to authorize Dr. Floyd M. Riddick, Parliamentarian of the Senate, and Peter Stockett, Jr., chief counsel and staff director of the Committee on the Judiciary, to appear before the U.S. District Court for the District of Columbia to give testimony and present other evidence with respect to trial proceedings in the case of United States versus Howard Edwin Reinecke (Criminal No. 74–155).

Dr. Riddick and Mr. Stockett are to be served with subpenas to appear as witnesses in the Reinecke case. This resolution is in response to such subpenas.

This resolution is also in response to a letter of July 8, 1974, from the Honorable Leon Jaworski, Special Prosecutor, to me, as chairman of the Judiciary Committee. I ask unanimous consent that the text of said letter be printed in the RECORD at this point.

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

JULY 8, 1974.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN EASTLAND: The trial of Howard Edwin Reinecke, Criminal No. 74–155, is scheduled to begin on July 15, 1974. We have made repeated requests of defense counsel for stipulations which would cover the possible testimony of Peter Stockett, Jr., and Floyd Riddick. It now appears, however, that defense counsel will refuse this request. While we will continue to seek ways to avoid the necessity of calling these witnesses we must, once again, request your assistance in securing the necessary authorization to allow them to appear at the trial.

The proposed testimony of Mr. Riddick is that it has been the practice of the Senate to refer all nominations for Attorney General to the Committee on the Judiciary and that pursuant to that practice the nomination of Richard G. Kleindienst was referred to that Committee for consideration.

Mr. Stockett will be asked to testify to the fact that the Judiciary Committee held hearings on the nomination of Mr. Kleindienst to be Attorney General, the dates of those hearings, the circumstances that led to the resumption of those hearings on March 2, 1972, the appearance of Mr. Reinecke at those hearings, and to the existence or non-existence of any resolution concerning the scope or holding of these hearings. In connection with this testimony we may offer in evidence the resolution passed by the Judiciary Committee on April 7, 1972 which has previously been supplied to this office. Mr. Stockett may also be asked questions concerning the adoption of the one Senator Quorum Rule by the Judiciary Committee on January 26, 1972 as well as the practice of the Committee in not taking action absent a quorum. In this connection the first, ninth and tenth pages of the minutes of the January 26, 1972 meeting may be offered in evidence.

Thanking you for your continued cooperation in this matter, I am,

Sincerely yours,

LEON JAWORSKI,
Special Prosecutor.

Mr. EASTLAND. Mr. President, in his letter, Mr. Jaworski states that the proposed testimony of Mr. Riddick is that it has been the practice of the Senate to refer all nominations for Attorney General to the Committee on the Judiciary and that pursuant to that practice the nomination of Richard G. Kleindienst was referred to that committee for consideration.

Mr. Jaworski further states that Mr. Stockett will be asked to testify to the fact that the Judiciary Committee held hearings on the nomination of Mr. Kleindienst to be Attorney General, the dates of those hearings, the circumstances that led to the resumption of those hearings on March 2, 1972, the appearance of Mr. Reinecke at those hearings, and to the existence or nonexistence of any resolution concerning the scope or holding of these hearings, and that in connection with this testimony the resolution passed by the Judiciary Committee on April 7, 1972, which has previously been furnished to Mr. Jaworski by the provisions of Senate Resolution 354 may be offered in evidence. In addition, Mr. Jaworski states that Mr. Stockett may also be asked questions concerning the adoption of the one-Senator quorum rule by the Judiciary Committee on January 26, 1972, as well as the practice of the committee in not taking action absent a quorum.

The resolution would allow Dr. Riddick and Mr. Stockett to testify about the matters mentioned in Mr. Jaworski's letter.

The resolution would also authorize Dr. Riddick and Mr. Stockett to testify to any matter determined by the court to be material and relevant for the purposes of identification of copies of documents, papers, communications, and materials made public by the Judiciary Committee or the Senate. Finally, the resolution directs Dr. Riddick and Mr. Stockett to respectfully decline to testify concerning any and all other matters that may be based on knowledge acquired by them in their official capacities either by reason of documents and papers appearing in the files of the Senate or by virtue of conversations or communications with any person or persons, and Mr. Stockett is directed to respectfully decline to testify concerning any matter or matters within the privilege of the attorney-client relationship existing between him and the Committee on the Judiciary or any of its members.

Mr. President, I ask that favorable consideration be given this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 357) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 357

Whereas, in the case of United States v. Howard Edwin Reinecke (Criminal No. 74–155), pending in the United States District Court for the District of Columbia, subpenas are to be issued by that court and addressed to Peter Stockett, Junior, Chief Counsel and Staff Director of the Committee on the Judiciary, and Floyd M. Riddick, Parliamentarian of the Senate, directing them to appear before that court and to give testimony and present other evidence with respect to trial proceedings in such case: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate of the United States can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession, but by its permission.

SEC. 2. By the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate.

SEC. 3. When it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate of the United States is needful for use in any court of justice or before any judge or such legal officer for the promotion of justice and, further, such testimony may involve documents, communications, conversations, and matters related thereto under the control of or in the possession of the Senate of the United States, the Senate of the United States will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 4. Peter Stockett, Junior, Chief Counsel and Staff Director of the Committee on the Judiciary, and Floyd M. Riddick, Parliamentarian of the Senate, are authorized to appear before the United States District Court for the District of Columbia in response to any subpena ad testificandum or subpena duces tecum issued by that court in the case of United States v. Howard Edwin Reinecke (Criminal No. 74–155) but shall not take with them any papers or documents on file in their offices or under their control or in their possession as such Chief Counsel and as Parliamentarian.

SEC. 5. When that court determines that (1) any of the documents, papers, communications, and memorandums called for in any such subpena duces tecum have become part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the rules of the Senate, and (2) such documents, papers, communications, and memorandums are material and relevant to the issues pending before the court, then that court, through any of its officers or agents, has full permission to attend with all proper parties to the proceeding, and then always at any place under the orders and control of the Senate, and make copies of such documents, papers, communications, and memorandums in possession or control of the said Peter Stockett, Junior, or Floyd M. Riddick.

However, no other documents, papers, communications, and memorandums (including, but not limited to, minutes and transcripts of executive sessions and any evidence of witnesses in respect thereto) shall be made

available or copied except by permission of the Senate.

SEC. 6. In response to any such subpena—

(1) the said Peter Stockett, Junior, and Floyd M. Riddick, may testify to any matter determined by the court to be material and relevant for the purposes of identification of copies of documents, papers, communications, and materials made under section 5;

(2) the said Peter Stockett, Junior, may testify with respect to whether the Committee on the Judiciary held hearings on the nomination of Richard G. Kleindienst to be Attorney General, the dates of those hearings, the circumstances that led to the resumption of those hearings on March 2, 1972, the appearance of the said Howard Edwin Reinecke at those hearings, the existence or non-existence of any resolution concerning the scope or holding of these hearings, matters concerning the adoption of the one-Senator quorum rule by the Committee on the Judiciary on January 26, 1972, as well as the practice of the Committee in not taking action absent a quorum, and any of the minutes of executive sessions of the Committee made available under Senate Resolution 354, 93d Congress, agreed to June 27, 1974; and

(3) the said Floyd M. Riddick may testify with respect to the practice of the Senate to refer all nominations for Attorney General to the Committee on the Judiciary and that pursuant to that practice the nomination of Richard G. Kleindienst was referred to that committee for consideration.

However, said Peter Stockett, Junior, and Floyd M. Riddick shall respectfully decline to testify concerning any and all other matters that may be based on knowledge acquired by them in their official capacities either by reason of documents and papers appearing in the files of the Senate or by virtue of conversations or communications with any person or persons, and the said Peter Stockett, Junior, shall respectfully decline to testify concerning any matter or matters within the privilege of the attorney-client relationship existing between him and the Committee on the Judiciary or any of its members.

SEC. 7. A copy of this resolution shall be transmitted to the court as respectful answers to the subpenas it may issue in such case.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be recognized briefly without any time charged against the pending business.

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

AUTHORIZATION OF WAIVER OF CERTAIN CLAIMS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1803.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1803) to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to certain officers and employees of the legislative branch, which was to strike out all after the enacting clause, and insert:

That section 5584 of title 5, United States Code, is amended as follows:

(1) Strike out "executive" wherever it appears in such section.

(2) In subsection (b)(2)—

(A) immediately after "(2)" insert the following: "except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden,"; and

(B) strike out "or" at the end thereof.

(3) In subsection (b)(3)—

(A) immediately after "(3)" insert the following: "except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden,"; and

(B) strike out "the effective date of the amendment authorizing the waiver of allowances, whichever is later." and insert in lieu thereof "October 2, 1972, whichever is later; or".

(4) At the end of subsection (b), add the following new clause:

"(4) in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered or 3 years immediately following the date on which this clause (4) is enacted into law, whichever is later."

(5) At the end of the section, add the following new subsection:

"(g) For the purpose of this section, 'agency' means—

"(1) an Executive agency;

"(2) the Government Printing Office;

"(3) the Library of Congress;

"(4) the Office of the Architect of the Capitol; and

"(5) the Botanic Garden.".

SEC. 2. (a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation expenses and allowances, on or after the date of enactment of this Act, to the Vice President, a Senator, or to an officer or employee whose pay is disbursed by the Secretary of the Senate, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by the Secretary of the Senate, if the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official. An application for waiver shall be investigated by the Financial Clerk of the Senate who shall submit a written report of his investigation to the Secretary of the Senate. An application for waiver of a claim in an amount aggregating more than $500 shall also be investigated by the Comptroller General of the United States who shall submit a written report of his investigation to the Secretary of the Senate.

(b) The Secretary of the Senate may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the Vice President, the Senator, the officer or employee, or any other person having an interest in obtaining a waiver of the claim; or

(2) if the application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered.

(c) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(d) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

(e) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(f) The Secretary of the Senate shall promulgate rules and regulations to carry out the provisions of this section.

SEC. 3. (a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation expenses and allowances, on or after the date of enactment of this section, to an officer or employee whose pay is disbursed by the Clerk of the House of Representatives, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by the Speaker of the House, if the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official.

(b) An application for waiver of a claim shall be investigated by the Clerk of the House of Representatives who shall submit a written report of his investigation to the Speaker of the House.

(c) The Speaker of the House may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the officer or employee or any other person having an interest in obtaining a waiver of the claim; or

(2) if the application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered.

(d) In the audit and settlement of the accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(g) The Speaker of the House shall prescribe rules and regulations to carry out the provisions of this section.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

RELIEF OF MARCOS ROJOS RODRIGUEZ

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 724.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 724) for the relief of Marcos Rojos Rodriguez, which was, on page 1, line 6, strike out "$15,000" and insert "$10,000".

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of each side equally.

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

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

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

ACCESS TO PSYCHOLOGISTS AND OPTOMETRISTS UNDER FEDERAL HEALTH BENEFITS PROGRAMS

The Senate continued with the consideration of the bill (S. 2619) to provide for access to all duly licensed psychologists and optometrists without prior referral in the Federal employee health benefits programs.

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

The PRESIDING OFFICER. The pending business is S. 2619. All time is equally divided, with 30 minutes for each amendment.

Mr. McGEE. Mr. President, I yield myself such time as I may require. I will use a very few minutes now.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. McGEE. Mr. President, the Senate has before it a bill that deals with the question of whether or not Federal employees who are covered by Federal health programs should be required to have a medical doctor's or doctor's referral and supervision before they may avail themselves of the services of optometrists or clinical psychologists.

Under the present system there are two major Federal employee insurance groups. One of those two groups already has the freedom-of-choice system; namely, the beneficiaries in the health insurance plan for which they pay permits them, if their medical situation seems to require it, on their own, to pick an optometrist to consult with if the problem relates to the field of optometry, or to pick a clinical psychologist, if the problem relates to that field.

At this time, 46 States already have licensing and certification boards regulating clinical psychologists and we do not intend to tamper with that. We are simply insisting in this bill that in the interest of equity of health insurance beneficiaries should have freedom of choice. As it exists now in the one group, the Blue Cross group, Federal employee subscribers have to be referred and supervised by a physician before qualifying for benefits by a clinical psychologist.

The objection to that is twofold. In the first place, it is an extra charge going through the M.D. and it makes it more expensive; a double charge, in effect. Second, many medical doctors are not prepared to deal with psychological problems and, therefore, we have cases testified to during the course of hearings in which an medical doctor failed to prescribe accurately for the problem of the patient. He may have given pink pills or some other kind of medicine that the patient picks up at the prescription counter when the problem was a psychological problem.

All we are saying is that the limitation that now exists in Blue Cross contracts concerning Federal employees requiring referral and supervision is not a guarantee of anything except it probably increases the cost to employees who carry that particular policy. I underscore that these are group health benefit policies in which employees put their fair share of the cost. All we are trying to do is to establish equity. I repeat that one group already permits freedom of choice—the Aetna Insurance Co. and they testified before the committee. Their testimony was to the effectiveness of their approach.

Likewise, in our hearings, established that there is a foot-dragging operation going on on the part of Blue Cross. It is difficult to change from things that you have always been doing. We believe that the record in the 46 States which now license clinical psychologists and control the licensing, and the record under the Aetna Health Insurance program for the Federal employees, assures us that there is no significant risk in any form in extending this kind of freedom of choice to all Federal employees.

In light of this, Mr. President, we believe that the bill, unanimously reported out of the Post Office and Civil Service Committee, is, indeed, a meritorious measure and would establish a far more equitable case than presently exists.

In rural areas, in low-population areas, this would be a godsend for the reason that for a person in a small town of a couple of hundred people to be required to find a medical doctor to send him to an eye doctor instead of to an optometrist, or to require all of this rigamarole ultimately to get the services of a clinical psychologist, is an added expense, a delay, and an encumbrance on an already heavily loaded medical doctor requirement. We think all things added together recommend that this body adopt the bill as reported out of the Senate committee.

Mr. President, I am prepared to yield to my colleague, the ranking minority member (Mr. FONG).

Mr. FONG. Mr. President, I yield myself whatever time is needed.

Mr. President, S. 2619 is a very simple bill. It only deals with Federal employees who are enrolled in Federal health insurance plans. It gives them direct access to all duly licensed clinical psychologists and optometrists for illness-related treatment without prior referral by a medical doctor.

Under existing law, contracts between the U.S. Civil Service Commission and some Federal employee health insurance carriers provide that participants under these health benefits programs must be referred to a psychologist or an optometrist by a licensed medical physician if the participant is to receive payment or reimbursement for the services performed by the psychologist or optometrist.

Testimony presented to the Senate Post Office and Civil Service Committee on S. 2619 showed that oftentimes this prior referral procedure can work severe hardships on a participant. In many areas of our country where Federal employees work and live, a physician may be many miles away from the employee and his family. A physician may not be as available as an optometrist or psychologist when the need arises for treatment. This measure would insure the availability of such service.

During the hearing, it was revealed that Blue Cross-Blue Shield is the only national plan that requires referrals by a physician for psychologist and optometrist services. Even in my own State of Hawaii, the Hawaii Medical Services Association, a Blue Cross-Blue Shield member, does not require prior referral by a medical doctor to a psychologist. Regarding optometrists, the HMSA plan has an indemnity clause for optometric treatment and no physician referral is required.

I should point out that the peer review and State licensing laws regarding psychologists in Hawaii are very strict and it is on this basis that the HMSA felt assured that it could do without physician referral for psychologists and optometrists.

Again, during the hearings on S. 2619, I was impressed with the need particularly in rural areas, to allow a Federal employee or a member of his family, access to an optometrist or a psychologist without physician referral for an illness-related problem. Oftentimes, a physician may not be readily available. In view of this need, I voted for S. 2619 in committee and urge Senate passage

Mr. McGEE. Mr. President, we are prepared to yield the floor to the Senator from Utah who has an amendment he would like to submit.

Mr. BENNETT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 2, line 12 strike the word "a" and insert "an".

On page 2, line 12 strike out "clinical psychologist or".

On page 2, line 15 strike the word "a" and insert "an".

On page 2, line 16 strike out "clincial psychologist or".

Mr. BENNETT. Mr. President, I yield myself such time as I may require.

I have no disagreement with the committee with respect to optometrists. I cannot quite accept the idea of the committee that clinical psychologists are more plentiful than physicians, and are more apt to be found in rural areas. I have the feeling that there are fewer.

Mr. President, the basic question of whether or not the Federal Government should pay for the services of a clinical psychologist without having the patient first see a physician was argued 2 years ago when an attempt was made to provide similar free access to clinical psychologists by all medicare patients.

That proposal was rejected by the Senate by vote of 57 to 18. One of the reasons that it was rejected was that it was evident that if this were to become so widespread as to include half of the elderly people who are on medicare, it would add about 10 percent to the present cost of medicare, which is $2.5 billion.

Mr. President, I realize we are not talking about that here, but this could be an opening door. If the clinical psychologist can say, "Well, look, the Federal Government authorizes it for their own employees, therefore it should be available to all medicare patients," it may be a little harder to hold the line.

Mr. President, the issue before us is whether or not the Federal employees' program should cover the services of clinical psychology without a physician's referral.

There are a number of reasons why I think it would be a mistake to drop the present requirement for a physician's referral.

First, the physical aspects and the mental aspects of a person's health status are, in most cases, inseparable.

Mental and physical conditions are intimately entwined. Many mental illnesses often show up first in terms of physical symptoms, such as sleeplessness and weight loss. Conversely, many physical problems first appear through emotional symptoms. For example, a drug which a high blood pressure patient may be taking can cause severe depression.

Mr. President, since these mental, emotional, and physical symptoms are all so closely entwined, it makes sense for the patient first to be seen by a physician in order that his complete health status may be evaluated.

If the services of a psychologist are indicated, the patient can then be appropriately referred.

Mr. President, I must say very frankly that there is another compelling reason for retaining the requirement for a physician's referral. I do not mean in any sense to denigerate the profession of clinical psychology, but it seems clear to me that there is strong evidence coming from within the profession, itself, that the profession's house is not entirely in order.

In view of this, it would be prudent, I believe, for us to go slow in modifying the present clinical psychology benefit. The type of evidence I am talking about is perhaps represented by an article by Dr. Frederick C. Thorne, editor of the Journal of Clinical Psychology, in which he takes the profession to task in a number of issues.

Mr. President, I am not going to read the entire article, but I would like to discuss one or two of the points that Dr. Thorne raises.

At a time when societal demands for clinical psychological services are rising geometrically, the field of clinical psychology finds itself oversold and unable to deliver what it traditionally has been expected to provide. Suddenly, as the result of facts uncovered by a host of clinical judgment studies that question the validity and competence of what the average clinical psychologist is doing, clinicians find their very integrity at issue.

We cannot evade the fact that much remains to be desired in the area of clinical judgment.

The profession of clinical psychology that started out so hopefully suddenly finds its whole theoretical background, personnel and methodology under severe attack from many sources, both external and internal, as to validity and justification. Worst of all, psychological practices have become the subject of congressional investigations and patterns of local rejection as clinical actualities do not live up to pretensions.

Our great hangup stems from the fact that the profession of clinical psychology is stuck with itself at its present embryonic state of evolution. The public has been sold on the idea that all it has to do is to raise the money to secure psychiatrists and psychologists and a long list of social problems will be solved. This expectation simply has not achieved a state of development that enables it to provide knowledge and techniques that are as valid and relevant as has been taken for granted.

Even more critical is the issue of exactly what psychological science can contribute to human welfare. One way in which the psychological scientist can make a contribution is simply by protecting the client from misguided case handling on the part of ignorant laymen or even incompetent colleagues. In the midst of current waves of discouragement and loss of morale attendant upon learning that many psychological techniques are either obsolete or invalid, we must not lose sight of the fact that we have made a great positive advance simply in learning what does not work and, therefore, what not to do. A very valuable contribution can be made simply by protecting the client from well-intentioned mishandling.

The clinician often has done his job when he merely supports the client through periods of stress until the client can reintegrate his own resources.

Everybody now seems to be admitting that traditional clinical training has not turned out very well and that something must be done about it. The whole training program is hung up on the fact that much of what is being taught is known to be invalid and/or irrelevant at the very time it is being taught. Something is gravely the matter when highly selected intelligent students cannot find much to learn that turns out to be of much value to them.

Part of the disillusionment in clinical psychology and psychiatry relates to the uncertain status of diagnostic methods, classification systems, and nomenclatures adopted by official organizations that are now somewhat belatedly recognized as being invalid, obsolete, or irrelevant. Unfortunately, the predominant reaction to the defrocking of classical psychodiagnostics was one of nihilism and rejection of the whole business.

If we can make any predictions at all about the future of clinical psychology and psychiatry, it is that the entire field of psychodiagnosis is long overdue for a reevaluation and reworking, starting right from the beginning and building up a more comprehensive system of psychopathology from which more valid psychodiagnosis must naturally stem.

Paradoxically, efforts to develop the field of psychodiagnosis largely have collapsed at the very time when they are most needed in the field of psychotherapy. Disillusioned by the inadequacies of traditional psychodiagnosis concerned mostly with classification and chastened by revelations of their own diagnostic inadequacies, too many clinicans have washed their hands completely of psychodiagnosis.

Our basic contention is that we must reconsider the whole field of psychodiagnosis to reestablish its validity and relevance. Rather than being dismayed over the inadequacies of the state of dependable knowledge in clinical psychology during its first 50 years, we must return to the beginnings and discover where the errors are being made. This will be accomplished quickly only through a cooperative project on the part of the whole profession, which must subject all of its theories, methods and practices to rigorous validation and clinical judgment studies which, hopefully, will result in future generations of truly competent clinicians.

Teachers, researchers, and practitioners should coexist in a mutually interdependent partnership, all with equal status, and all contributing to the final result. Many of the most valuable leads for teaching and research have come from practitioners, and it is the practitioners who ultimately can validate the work of the teachers and researchers.

We need to abandon permanently the "one-way street" attitude that regards scientists and teachers as the font of all learning with the practitioners inevitably in pupil roles.

Mr. President, aside from the problems I have discussed, which were represented by the editor of "Clinical Psychology," there are other reasons for not removing the requirement for physician referral.

The direction in health care is toward coordinated and related treatment. The majority of clinical psychologists today, function in organized settings such as clinics where their treatment is available along with that of other health disciplines. To encourage independent and free-standing services by clinical psychologists would not only lead to further fragmentation of health care but would also be highly inflationary as these practitioners shift from salaried compensation to fee for service.

Often psychological difficulties—such as anxiety and depression—are treatable with appropriate drug therapy. Where the clinical psychologist works with a physician, necessary drugs may be prescribed by the doctor. But, clinical psychologists themselves are not licensed to prescribe. Accordingly, without the prescribing authority of a medical doctor, the independent psychologist—divorced from a plan of care established by a physician—may very well require repeated and costly visits by a patient which could be avoided through proper prescribing by a medical doctor.

For all these reasons, both the Finance Committee and the full committee in 1972 rejected overwhelmingly, by rollcall vote, coverage of clinical psychologists on an independent basis under medicare.

As I said earlier, to a certain extent, in a very real sense, the people who would be covered by this bill are the same kind of people who will be covered by medicare. If we go forward, as I think we may well do in the next year or so, to have a general national system of health care, then we will face this question again. Either this is a foot in the door, or we will have to reconsider the whole matter and decide which of the two decisions we made were right.

The same reasoning is equally valid today. I urge the Senate to demonstrate

again its rational attitude in this situation.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in Time, in March of 1972, entitled, "Poetry Therapy," and an article which appeared in "Science," in September of 1971, entitled, "Psychologists Beset by Feelings of Futility, Self-Doubt."

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

POETRY THERAPY

In their efforts to understand the mental illnesses they treat, therapists sometimes encourage their patients to express themselves in painting, music, dance and drama. Now they are turning to yet another art form: poetry.

Across the U.S., according to the current issue of the *Sciences*, there are now about 3,500 mental patients, prison inmates, troubled students and nursing-home residents who are reading and writing poetry under the guidance of some 400 psychiatrists, psychologists, social workers and specially trained English teachers. These programs have shown so much promise that formal training in poetry therapy is now available. Indiana University of Pennsylvania is planning a three-week summer course in the subject, and Indiana Northern University, in conjunction with GROW (Group Relations Ongoing Workshops) in Manhattan, is preparing to grant a master's degree in the new field.

Patients in poetry therapy are encouraged to read verse, write it, or both. The technique seems to be effective in both individual and group treatment, probably because serious poems usually touch on deep, universal emotions. According to Yale Psychiatrist Albert Rothenberg, a patient who suddenly deciphers the message of a great poet may experience a flash of understanding similar to the dramatic insight that can come to patients in ordinary psychotherapy. By writing an original poem, an inhibited, repressed person may tell his doctor much that was previously secret. Poetry, says Rothenberg, "is even more revelatory than dreams."

Writing verses can help "hostile and disruptive students control their chaotic emotions," *Sciences* reports. One such student, an ex-addict at Manhattan's Washington Irving High School, wanted to hit people, leave school or begin mainlining again to get back at guidance counselors who, she felt, had misled her with false hopes. Encouraged to substitute words for deeds, the girl raged in verse: "I don't like what you've done/ I'll put you all up against the wall/ And execute you all./ I'll have you destroyed./ Remember, it's you all/ I intend to kill." Having vented her anger in this and other verse, she became less hostile.

Another youngster, Lorene, who lives in Brooklyn's Bedford-Stuyvesant ghetto, was so withdrawn before being exposed to poetry therapy that she stayed out of school, refused treatment for her disfiguring facial eczema and sought escape in alcohol. Visited at home by English Teacher Morris Morrison, she began to respond and cooperate when he read her two lines from Emily Dickinson, "I'm Nobody! Who are you?/ Are you—Nobody—too?" "In Emily Dickinson," Morrison explains, "Lorene could identify with someone as lonely as herself." Eventually Lorene went for skin treatment and returned to school.

CRY FOR HELP

Poetry always offers clues to the mind of its creator, but those clues are not often as explicit as the suicidal lines of a 15-year-old boy whose fate became known to English Professor Abraham Blinderman of the State University of New York. Blinderman thinks that the boy's teacher should have recognized his deep distress, and he believes that if the youngster had been in poetry therapy, his eloquent poem would have been understood as a cry for help. In that case, psychiatric treatment might have saved him. As it was, his cry went unheeded, and two years later he committed suicide.

Just as poetry can predict suicide, so it can also provoke it. That, says, Psychiatrist Jack Leedy, president of the Association for Poetry Therapy, is one danger of the method in unskilled hands. Reading somber verses with upbeat endings can help unhappy patients by demonstrating that "others have been depressed and have recovered," but despairing poems may deepen the feelings of hopelessness. Psychiatrist Rothenberg cites another danger: poetry used only to get rid of intense feelings can keep a patient from understanding and resolving his conflicts. "Poetry by itself does not cure," he warns. But used by properly trained therapists, he says, it has an advantage over the other arts because it encourages "verbalization, the lifeblood of psychotherapy."

TO SANTA CLAUS AND LITTLE SISTERS

Once . . . he wrote a poem.
And called it "Chops,"
Because that was the name of his dog, and
that's what it was all about.
And the teacher gave him an "A"
And a gold star.
And his mother hung it on the kitchen door,
and read it to all his aunts . . .
Once . . . he wrote another poem.
And he called it "Question Marked Innocence,"
Because that was the name of his grief and
that's what it was all about.
And the professor gave him an "A"
And a strange and steady look.
And his mother never hung it on the kitchen
door, because he never let her see it . . .
Once, at 3 a.m. . . . he tried another poem . . .
And he called it absolutely nothing, because
that's what it was all about,
And he gave himself an "A"
And a slash on each damp wrist,
And hung it on the bathroom door because
he couldn't reach the kitchen.

—A 15-year-old boy two years before he committed suicide.

PSYCHOLOGISTS BESET BY FEELINGS OF FUTILITY, SELF-DOUBT

Psychologists have not escaped the spiritual and financial doldrums currently afflicting scientists and scholars; indeed, the profession as a whole seems to be suffering acutely from frustration, lack of direction, and feelings of ineffectuality when it comes to applying their expertise to the problems of society.

The American Psychological Association (APA), which held its 79th annual meeting last week, was bigger and more verbose than ever (an estimated 11,000 persons attended the 4-day meeting), but the proceedings were strongly characterized by aimlessness and boredom. Even the women's liberationists and psychopolitical radicals tended merely to add to the mountains of verbiage. "I used to go to APA conventions and feel in touch with what was quivering and what was dead," said one psychologist. "Now I'm bored to death half the time."

Science talked to several psychologists who felt that psychology was missing the relevance boat but that no one really had any ideas as to how to make the profession an imaginative and influential force for social change. What they do feel, says past APA president George Albee, is "what they're doing isn't working."

Back in the Kennedy and early Johnson years, says Bernard Friedlander of the University of Hartford, there was a sense of optimism and buoyancy as psychologists were sought out to help design antipoverty and other new social programs. "They really felt they were making a difference," said Friedlander. "There was the sense that the psychologist was the agent of social change."

Now, psychologists are feeling ignored, particularly by the Nixon Administration; their advice is neither sought nor heeded, and, after witnessing the dismemberment or failure of programs they helped initiate, they aren't so sure they have the answers anyway.

Leonard Berkowitz of the University of Wisconsin suggested that frustration also stems from the fact that psychology has no comprehensive theoretical model or, as another psychologist put it, "grand old man" of the profession—an integrative personality whose ideas psychologists could use as a reference point in relating their discoveries to a larger picture. Twenty years ago, for example, psychoanalysis was the touchstone, and its methods, it was believed, would unlock the secrets of human behavior. Now, it seems, there is less agreement than ever on the basic nature of man and how to affect it.

Into all this uncertainty has stepped B. F. Skinner, the famed Harvard behaviorist who has been getting a lot of attention lately in anticipation of his forthcoming book, *Beyond Freedom and Dignity*. Skinner, who received the APA's annual Gold Medal for research, is just about the only psychologist around who thinks he has some answers. He believes that all of man's behavior is determined by his environment; ultimately, through a new "technology of behavior," the human milieu can be structured by operant conditioning (the stimulus-response techniques first developed by Pavlov) to compel people to behave in constructive and socially acceptable ways. Most psychologists dislike the narrowness of the Skinner approach, which completely ignores the concept of self-determination and throws psychoanalysis to the winds. But some believe it is a profound statement that extends behaviorist techniques to the manipulation of the cultural as well as the physical environment.

The only other plan of action enunciated at the APA meeting was contained in a speech by Kenneth Clark, the association's president. Clark sent a mild shock wave through the convention with his proposal that mind-affecting drugs be used on political leaders to prevent them from exercising their baser impulses. The imminence of mankind's annihilation through a nuclear holcaust makes resort to the usual civilizing disciplines fruitless, said Clark; therefore, "selective and appropriate medication to assure psychological health and moral integrity is now imperative for the survival of human society."

Clark's speech was widely regarded as an expression of fatigue and disillusionment, and it dismayed many psychologists, who found it "appalling," "depressing," and "pathetic."

At least one professional, however, thought Clark's only mistake was in not speaking out sooner. "A pervasive problem among psychologists," says Lester Turner, a Washington, D.C. psychologist, "is that they have a terrible fear of being wrong. At least Clark had the guts to start a controversy." Turner blames psychologists themselves for their current state of impotence. "Psychologists are totally useless as a resource to the country . . . in the past, at least, they have been academic cowards incapable of functioning in the real world." In support of this view, Turner points out that, until recently, psychologists haven't even pulled themselves together to form a lobby. ("Even the podiatrists have a lobby!")

Alarm over the fact that psychological services are being largely ignored by designers of the new national health insurance plan has finally prompted some APA members to form a lobby. Called CAPPS, for Council for the Advancement of the Psychological Professions and Sciences, the new organization is hoping to have a budget of

$250,000 for its first year of operation. David Shanan, executive director of CAPPS, says the group will be concerned with all legislation relating to the profession, but the health plan is the urgent priority. Of over 100 bills that have been introduced on Capitol Hill, he says, 51 contain provisions for chiropractors, but only one covers psychologists.

While the lobby is outside the APA, there are also signs that that vast organization is trying to streamline its increasingly unwieldy self. Albee, who teaches at the University of Vermont, says there has been a big controversy within the organization over whether it should change its long-cherished tax-exempt status. A report recently produced by APA's Policy and Planning Board suggests that the organization drop its present 31 divisions and form three or more separate societies. One division might be the social activist component, now called Psychologists for Social Action, whose members are also interested in forming a lobby.

The APA is a slow mover, but its current malaise may hasten its climb down from the ivory tower and into the political hustle.—CONSTANCE HOLDEN

Mr. BENNETT. Mr. President, I recognize that there are many fine clinical psychologists, many men of ability and capability, who can serve their patients effectively. But I am concerned that we take what seems to be a small step toward a goal which I think would be very dangerous for all the elderly people of the United States.

I cannot agree that if we require the physician to refer the patient to the psychologists, we are going to run a chance of increasing the cost to the Government. If the patient is free, on his own, to go to the psychologist, there are many lonely people, lonely old people, who would be willing to pay $10, $15, $20, or $30 a visit for the privilege of speaking to a friendly listener about their symptoms every month or so, without any real hope of changing the patient's condition.

That is the kind of situation we open up if we alllow the clinical psychologist to serve the patients under the insurance system without involving a physician at some point in the treatment.

So, Mr. President, I hope that my amendment will be adopted, and I ask for the yeas and nays.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER (Mr. CLARK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McGEE. 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. McGEE. Mr. President, I have a couple of things to say, on our time, while sufficient Senators arrive in the Chamber in connection with the request for the yeas and nays.

Mr. President, I think there is some misunderstanding about what this legislation does and I want to point this out to my friend, the Senator from Utah.

There is no existing requirement now on the books as a law that excludes clinical psychologists from providing health services to subscribers to health benefit plans without referral and supervision by a medical doctor. This is something that is written into the contracts by the insurance carriers. We have two major carriers for the great majority of Federal employees. One of them does write it into the contract, the other one does not.

We have the testimony of both groups and the point of it is that Aetna, permits freedom of choice, and they have had no problems with it.

They survey, as well, the qualifications of the clinical psychologist. Forty-six States have licensing boards to certify the clinical psychologists.

The Senate is not, in this bill, intruding into anything, or opening up any doors, that would endanger the basic professionalism of health treatment or health benefits. All we are doing is trying to correct an inequity in the present practice of the contract.

Under the record that has already been written, the experience of Aetna has found this to be a simple and just inclusion in the medical contract. Under the Blue Cross contract, which does require the referral, they have found no additional benefits that flow from that.

Now, of course, they have problems around the country in some matters, as the distinguished Senator read from a tract prepared by a clinical psychologist who raised his eyebrows over clinical psychologists, but we have the same level of articles in medical journals about M.D.'s, we have M.D.'s and we have M.D.'s. We are speaking here of legislative equity, not legislative intrusion.

The result is that because of the present practice, including the Senator's home State of Utah, I might add, where the freedom of choice is now a matter of the law of the State of Utah, most States consider this a matter of equity, and in the light of this, Mr. President, I would hope that the Senate would abide by the unanimous vote of the committee in recommending that the health benefits contracts of the carriers be required at least to permit the freedom of choice in all cases.

Mr. BENNETT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute.

Mr. BENNETT. In 1 minute, I would just make the point that it would be easier to ask Blue Cross to change the contract.

Now, writing this into the law of the land which can be used as a basis for argument for the change in the medicare bill, I recognize that it is not so serious as it was when we defeated it 57 to 18 in 1972.

I yield back the remainder of my time.

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

Mr. McGEE. I yield.

Mr. FONG. In the hearings before the committee, we heard from Aetna Insurance Co., which is one of the largest carriers of Federal employees health insurance, and in that plan, referrals are not required by physicians.

A Federal employee may, if he desires, go and see a psychologist or see an optometrist without referral by a medical doctor, but in the Blue Cross-Blue Shield plan there is that clause which says that they must be referred by the physician before the patient receive payments for treatment by a psychologist or an optometrist.

We felt that this referral by a physician should not be in the Blue Cross-Blue Shield plan, and, therefore, have asked that this bill be passed.

We feel that the cost would not be very prohibitive. We feel that there may possibly be a slight increase in premiums.

We feel that the Federal employee, if he desires, should be able to go directly to the clinical psychologist and to the optometrist, and not have to go to a physician for prior referral. There are times in rural areas when he may not find a physician but may find an optometrist. Under this bill he may not need to visit a physician first to refer him to the psychologist or the optometrist.

We feel that this is a very, very minor thing in favor of the Federal employees who are seeking help in this regard.

Mr. McGEE. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. McGEE. We are prepared to yield back the remaining time.

I understand the Senator from Utah has no time left. I yield back whatever time remains, and we are prepared to vote.

Mr. BENNETT. I am prepared to vote.

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

Mr. McGEE. I yield.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Missouri (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from North Dakota (Mr. McGOVERN), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. NUNN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 14, nays 72, as follows:

[No. 297 Leg.]

YEAS—14

Bennett	Fannin	Roth
Buckley	Gurney	Scott, William L.
Cook	Helms	Thurmond
Cotton	Hruska	Tower
Curtis	McClure	

NAYS—72

Abourezk	Eastland	Muskie
Aiken	Ervin	Nelson
Allen	Fong	Packwood
Baker	Griffin	Pastore
Bartlett	Hansen	Pearson
Bayh	Hartke	Pell
Beall	Haskell	Percy
Bentsen	Hatfield	Proxmire
Bible	Hollings	Randolph
Biden	Hughes	Ribicoff
Brock	Humphrey	Schweiker
Brooke	Inouye	Scott, Hugh
Burdick	Jackson	Sparkman
Byrd, Harry F., Jr.	Javits	Stafford
	Magnuson	Stennis
Byrd, Robert C.	Mansfield	Stevens
Cannon	Mathias	Stevenson
Case	McClellan	Symington
Chiles	McGee	Taft
Church	McIntyre	Talmadge
Clark	Metcalf	Tunney
Cranston	Metzenbaum	Williams
Dole	Mondale	Young
Domenici	Montoya	
Dominick	Moss	

NOT VOTING—14

Bellmon	Hart	Long
Eagleton	Hathaway	McGovern
Fulbright	Huddleston	Nunn
Goldwater	Johnston	Weicker
Gravel	Kennedy	

So Mr. BENNETT'S amendment was rejected.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGEE. Mr. President, so far as we know, we are ready for a third reading. I know of no other amendments that are pending.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McGEE. Mr. President, I also believe there is no demand for the yeas and nays.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. DOLE. Mr. President, the Senate is today considering a measure which will expand the health-care benefits available to our Nation's Federal employees. I supported this bill at the time of its consideration by the Post Office and Civil Service Committee, and wish to restate at this time my approval of the measure.

The bill will, first, provide members of the Federal health-care plan an element of personal freedom in obtaining proper medical treatment that they would not otherwise have, insofar as it will give Federal employees access to psychologists and optometrists without prior referral by a physician. This aspect should encourage wider use of these professional services and thereby promote the general well-being of Federal employees and their families.

Furthermore, S. 2619 will eliminate a number of costly and redundant administrative procedures which currently hamper the efficiency of these health-care facilities. This will be possible through elimination of an unnecessary interim procedure: the securing of a physician's reference for the patient. I have heard from a number of optometrists and psychologists who are opposed to the implications of this prior referral for their own professional status. And in this age of restrictive redtape, it makes sense for us to do all we can to remove such obstacles to better health care for the patients themselves.

The Post Office and Civil Service Committee heard testimony from members of both the medical and insurance professions durings its careful consideration of this legislation, and a significant amount of support was found for the provisions. Many participants cited the critical need to both expedite and improve the medical treatment available through the Federal health-care programs. A good number felt that S. 2619 would provide measurable improvements in this regard. Criticism was leveled at the current standard procedures which require Federal-employee patients with visual or emotional debilities to first visit a physician and secure his referral and supervision before proceeding to an optometrist or psychologist.

I want to join with my colleagues of the committee in urging full Senate approval of S. 2619, so that the quality health care which exists in our country today may not remain less effective because of limited access to it. Federal employees who depend upon Government health care insurance to pay for their medical treatment must not be thereby limited in the services they may seek.

Mr. President, I am hoping for a prompt and favorable vote by the Senate to eliminate that limitation.

The PRESIDING OFFICER. 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. Do the Senators yield back their time?

Mr. STEVENS. Mr. President, we yield back the remainder of our time.

Mr. McGEE. We yield back the remainder of our time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 2619) was passed.

The title was amended so as to read: "A bill to provide for access to all duly licensed clinical psychologists and optometrists without prior referral in the Federal employee health benefits program."

Mr. McGEE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ELIMINATION OF AN ANNUITY DEDUCTION

Mr. McGEE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 628.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill from the Senate (S. 628) entitled "An Act to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married", which was to strike out all after the enacting clause, and insert:

That (a) section 8339 of title 5, United States Code, is amended as follows:

(1) Subsection (j) is repealed.

(2) Subsections (k) to (n), inclusive, are redesignated as subsections (j) to (m), respectively.

(3) The redesignated subsection (j), formerly subsection (k), is amended to read as follows:

"(j)(1) At the time of retiring under section 8336 or 8338 of this title, an unmarried employee or Member who is found to be in good health by the Commission may elect a reduced annuity instead of an annuity computed under subsections (a)–(i) of this section and name in writing an individual having an insurable interest in the employee or Member to receive an annuity under section 8341(c) of this title after the death of the retired employee or Member. The annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual named is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

"(2) An employee or Member, who at the time of retiring under section 8336 or 8338 of this title elects a reduced annuity under paragraph (1) of this subsection and later marries, may irrevocably elect, in a signed writing received in the Commission within 1 year after the marriage, an annuity computed under subsections (a)–(i) of this section. Such latter annuity is effective the first day of the month after such election is received in the Commission. The election voids prospectively any election previously made under paragraph (1) of this subsection.".

(4) The redesignated subsection (k), formerly subsection (l), is amended by deleting "subsections (a)–(k)" and inserting in place thereof "subsections (a)–(j)".

(b) Section 8341 of title 5, United States Code, is amended as follows:

(1) by deleting paragraphs (1) and (2) of subsection (a) and inserting in place thereof the following:

"(1) 'spouse' means the surviving wife or husband of any employee, Member, or annuitant who—

"(A) was married to the employee, Member, or annuitant for at least 1 year immediately before the death of the employee, Member, or annuitant;

"(B) was married to the employee, Member, or annuitant at the time of the retirement of the employee, Member, or annuitant, and at the time of the death of the employee, Member, or annuitant: *Provided*, That such surviving wife or husband was married to the employee, Member, or annuitant for any period or periods of time totalling at least one year; or

"(C) is the parent of issue by that marriage; and";

(2) by redesignating paragraph (3) of subsection (a) as paragraph (2) of such subsection;

(3) by deleting paragraphs (1) and (2) of subsection (b) and inserting in place thereof the following:

"(1) When an annuitant, except an annuitant who did not elect an annuity as provided in paragraph (2) of section 8339(j) of this title, dies and is survived by a spouse, the spouse is entitled to an annuity equal to 55 percent of an annuity computed under section 8339(a)–(i) of this title as may apply with respect to the annuitant.";

(4) by redesignating paragraph (3) of subsection (b) as paragraph (2) of such subsection;

(5) by deleting ", widow, or widower" wherever occurring in paragraph (3) of subsection (b) redesignated as paragraph (2) of such subsection;

(6) by deleting "8339(k)" in subsection (c) and inserting in place thereof "8339(j)(1)"; and

(7) by deleting in subsection (d) "widow or widower" wherever occurring therein and inserting "spouse" in place thereof.

(c) Section 8344(a) of title 5, United States Code, is amended by deleting—

"If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased."

and inserting in place thereof—

"When an annuity is increased under subparagraph (A) of this subsection, then the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of that increase payable under such subparagraph (A).".

SEC. 2. (a) The annuity of a retired employee or Member who, immediately before the date of enactment of this Act, was receiving a reduced annuity in order to provide an annuity for a surviving spouse under subchapter III of chapter 83 of title 5, United States Code, or any prior applicable provision of law, shall be recomputed, and paid as if the annuity had not been so reduced.

(b) The annuity of an employee or Member who separated under section 8338 of title 5, United States Code, or any prior applicable provision of law, prior to the date of enactment of this Act which has a commencing date on or after such date of enactment shall be paid as if the amendment made by paragraph (1) of subsection (a) of the first section of this Act had been in effect at the time of the employee's or Member's separation.

(c) The amendments made by paragraph (3) of subsection (a) of the first section of this Act shall apply to annuities commencing before, on, or after the date of enactment of this Act.

(d) The amendment made by paragraph (1) of subsection (b) of the first section of this Act shall apply in the cases of employees, Members, or annuitants who die on or after the date of enactment of this Act, except that such amendment shall not apply to a spouse to whom an annuitant was married at the time of a retirement which occurred prior to such date of enactment.

(e) The annuity of a surviving spouse who, immediately before the date of enactment of this Act was receiving a survivor annuity under subchapter III of chapter 83 of title 5, United States Code, or any prior applicable provision of law, shall be recomputed, if necessary, and paid in an amount equal to 55 percent of the maximum annuity to which the former employee or Member was entitled at the time of his retirement or separation plus any annuity cost-of-living adjustments applicable to such survivor annuity which were authorized by law prior to the date of enactment of this Act.

(f) The spouse of an annuitant who retired or separated prior to the date of enactment of this Act and who dies on or after such date of enactment shall be entitled to an annuity in an amount equal to 55 percent of the maximum annuity to which the former employee or Member was entitled at the time of his retirement or separation plus any annuity cost-of-living adjustments applicable to the former employee's or Member's annuity which were authorized by law prior to the date of enactment of this Act. For the purpose of this subsection "spouse" means the surviving wife or husband—

(1) to whom an annuitant was married at the time of his retirement;

(2) to whom an annuitant was married for at least 1 year immediately before his death; or

(3) who is the parent of issue by the marriage to the annuitant.

(g) No annuity or increase in annuity resulting from the application of this section shall be paid for any period before the date of enactment of this Act or the commencing date of annuity, whichever is later.

Amend the title so as to read: "An Act to amend title 5, United States Code, to provide for annuities for surviving spouses under the civil service retirement system without reduction in principal annuities, and for other purposes."

Mr. McGEE. Mr. President, I move that the Senate disagree to the amendment of the House on S. 628; agree to the request of the House for a conference on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McGEE, Mr. BURDICK, and Mr. FONG conferees on the part of the Senate.

GEOTHERMAL ENERGY ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business and the pending business be laid aside temporarily and that the Senate turn to the consideration of Calendar No. 820, S. 2465.

The PRESIDING OFFICER. Without objection, the unfinished business and the pending business will be laid aside and the clerk will report Calendar No. 820, S. 2465.

The legislative clerk read as follows:

S. 2465, a bill to authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy; to coordinate Federal activities in geothermal energy exploration, research, and development.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with amendments on page 3, after line 2, strike out:

(d) Loan guaranties under this title shall be on such terms and conditions as the Secretary determines: *Provided, however,* That no guaranty shall be made under this title if—

(1) the loan involved is at a rate of interest which exceeds the prime interest rate plus one-half of 1 per centum;

(2) the terms of such loan do not require full repayment within thirty years after the date thereof;

(3) in the judgment of the Secretary, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will not be sufficient to carry out the project; or

(4) in the judgment of the Secretary, there is no reasonable assurance of the repayment by the qualified borrower of the guaranteed indebtedness.

And, in lieu thereof, insert:

(d) Loan guaranties under this title shall be on such terms and conditions as the Secretary determines: *Provided, however,* That guaranty shall be made under this title only if—

(1) the loan involved is at a rate which does not exceed the prevailing interest rates for conventional construction loans;

(2) the terms of such loan require full repayment within thirty years after the date thereof;

(3) in the judgment of the Secretary, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the project; and

(4) in the judgment of the Secretary there is reasonable assurance of the repayment by the qualified borrower of the guaranteed indebtedness.

On page 5, line 10, after the word "such", strike out "payments, with interest, from the defaulting borrower" and insert "payments from such assets of the defaulting borrower as are associated with the project"; on page 6, line 15, after the word "Congress", insert "by the Secretary"; on page 7, line 8, after the word "include", strike out "exploration" and insert "resource inventory"; in line 16, after the word "orderly", strike out "exploration" and insert "inventorying"; on page 8, line 2, after the word "such", strike out "exploration" and insert "surveys"; in line 17, after the word "geothermal", strike out "resources" and insert "resources, and conduct research into the principles controlling the location, occurrence, size, temperature, energy content, producibility, and economic lifetimes of geothermal reservoirs."

In line 23, after the word "the", strike out "exploration plan" and insert "inventory authorized by subsection 202(a) and the applied research authorized by subsection 202(e)"; on page 9, line 18, after the word "for", strike out "exploration" and insert "inventorying"; in line 23, after the word "for", strike out "exploration of" and insert "inventorying of and applied research on"; on page 10, line 1, after the word "section", strike out "202(a)" and insert "202"; in line 21, after the word "of", strike out "exploration and development", in line 22, after the word "successful", strike out "discovery and"; on page 11, at the beginning of line 21, strike out "energy" and insert "energy, water supplies, or minerals"; on page 12, line 11, after the word "to", strike out "contribute not less than 25 per centum of" and insert "make contributions toward"; in line 25, after the word "exceed", strike out "$5,000,000" and insert "$10,000,000"; on page 14, line 3, after the word "the", insert "loan guarantee"; and, in line 13, after the word "to", strike out "NASA to carry out the requirements of section 205" and insert "NASA"; so as to make the bill read:

S. 2465

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 "Geothermal Energy Act of 1973".

TITLE I—LOAN GUARANTEE PROGRAM

SEC. 101. (a) The Congress, in consideration of the Federal responsibility for the gen-

eral welfare, to facilitate commerce, to encourage productive harmony between man and his environment and to protect the public interest, finds that the advancement of technology by private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist in the commercial development of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Accordingly, it is the policy of the Congress to facilitate such commercial development by authorizing the Secretary of the Interior to guarantee loans for such purposes.

(b) In order to encourage the commercial production of energy from geothermal resources, the Secretary of the Interior, hereinafter referred to as the Secretary, is authorized to guarantee, to enter into commitments to guarantee, banks or other financial institutions against loss of principal or interest on loans made by such institutions to qualified borrowers for the purposes of acquiring rights in geothermal resources and performing exploration development, and construction and operation of facilities for the commercial production of energy from geothermal resources.

(c) Any guaranty under this title shall apply only to so much of the principal amount of any loan as does not exceed 75 per centum of the aggregate cost of the project with respect to which the loan is made.

(d) Loan guaranties under this title shall be on such terms and conditions as the Secretary determines: *Provided, however,* That guaranty shall be made under this title only if—

(1) the loan involved is at a rate which does not exceed the prevailing interest rates for conventional construction loans;

(2) the terms of such loan require full repayment within thirty years after the date thereof;

(3) in the judgment of the Secretary, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the project; and

(4) in the judgment of the Secretary, there is reasonable assurance of the repayment by the qualified borrower of the guaranteed indebtedness.

(e) The Secretary shall not guarantee any loan for any project the amount of which exceeds $25,000,000, nor guarantee any combination of loans for any single qualified borrower in an amount exceeding $50,000,000.

SEC. 102. (a) With respect to any loan guaranteed pursuant to this title, the Secretary is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the Secretary finds:

(1) that the borrower is unable to meet interest charges, and that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Government in paying such interest will be less than that which would result in the event of a default, and

(2) the amount of such interest charges which the Secretary is authorized to pay shall be no greater than an amount equal to the average prime interest rate for the preceding fiscal year as determined by the Secretary of the Treasury, plus one-half of one per centum.

(b) In the event of any default by a qualified borrower on a guaranteed loan, the Secretary is authorized to make payment in accordance with the guaranty, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments from such assets of the defaulting borrower as are associated with the project.

SEC. 103. No loan guaranties shall be made, or interest assistance contract entered into, pursuant to this title, after the expiration of the ten calendar year period following the date of the enactment of this Act.

SEC. 104. There is established in the Treasury of the United States a Geothermal Resources Development Fund (referred to in this title as the "fund"), which shall be available to the Secretary of the Interior for carrying out the loan guaranty and interest assistance program authorized by this title, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations shall be invested in bonds or other obligations of, or guaranteed by, the United States.

SEC. 105. There shall be paid into the fund the amounts authorized to be appropriated by section 106 of this title and such amounts as may be returned to the United States pursuant to section 102(b) of this title, and the amounts in the fund shall remain available until expended: *Provided,* That after the expiration of the ten-year term established by section 103 of this title, such amounts in the fund which are not required to secure outstanding guaranty obligations shall be paid into the general fund of the Treasury.

SEC. 106. There are authorized to be appropriated (1) to the fund not to exceed $50,000,000 annually, and (2) such amounts as may be required for the administrtaive costs of carrying out the provisions of this title.

SEC. 107. Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Secretary annually upon the completion of an appropriate accounting period.

TITLE II—COORDINATION OF FEDERAL ACTIVITIES IN GEOTHERMAL ENERGY EXPLORATION, RESEARCH, AND DEVELOPMENT

SEC. 201. The Congress, in consideration of the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest, finds that the advancement of technology with the cooperation of private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist private industry through Federal assistance for the development and demonstration of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Such means shall accordingly include resource inventory, research, and financial and technical assistance in the construction of pilot plants and demonstration developments with the objective of reaching commercialization in the most timely and practicable manner.

SEC. 202. The Secretary, acting through the Geological Survey, is authorized and directed to:

(a) develop and carry out a general plan for the orderly inventorying of all forms of geothermal resources of the Federal lands and, where consistent with property rights and determined by the Secretary to be in the national interest, of non-Federal lands;

(b) conduct regional surveys, based upon such a general plan, using innovative geologic, geophysical, geochemical, and drilling techniques, that will lead to a national inventory of geothermal resources in the United States;

(c) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of geothermal resources for beneficial use and consistent with the national interest;

(d) make such recommendations for legislation as may from time to time appear to be necessary to make Federal leasing policy for geothermal resources consistent with known inventories of various resource types, with the current state of technologies for geothermal energy development, and with current evaluations of the environmental impacts of such developments; and

(e) participate with the Atomic Energy Commission, the National Aeronautics and Space Administration, and the National Science Foundation in research to develop, improve, and test technologies for the discovery and evaluation of all forms of geothermal resources, and conduct research into the principles controlling the location, occurrence, size, temperature, energy content, producibility, and economic lifetimes of geothermal reservoirs.

SEC. 203. The Secretary shall coordinate the development and implementation of the inventory authorized by subsection 202(a) and the applied research authorized by subsection 202(e) with the geothermal research and development program of the Atomic Energy Commission to insure that information is developed in a timely manner for the optimum progress of geothermal development.

SEC. 204. In preparing or implementing the exploration plan, the Secretary is authorized to:

(a) employ contractors and consultants;

(b) acquire by fund transfers the services of employees and facilities of other Federal agencies; and

(c) cooperate and enter into contracts with State, regional, and local governmental agencies and educational and research institutions.

SEC. 205. The Administrator of the National Aeronautics and Space Administration, hereinafter referred to as NASA, is authorized and directed to prepare and transmit to the Secretary within six months from the date of this Act a proposal for the employment of space technologies and the services and facilities of NASA for inventorying and mapping of geothermal resources.

SEC. 206. The Secretary is authorized and directed to transmit to the President and the Congress, not later than one year from the date of this Act, the general plan including a schedule and objectives, for inventorying of and applied research on geothermal resources required by section 202 and each year thereafter a report on the status of activities authorized to be performed by the Secretary under the provisions of this Act.

SEC. 207. (a) The Atomic Energy Commission in cooperation with private industry is authorized and directed to:

(1) conduct, encourage, and promote basic and applied scientific research to develop effective, economical, and environmentally acceptable procesess and equipment for the purpose of utilizing all forms of geothermal resources for the production of useful energy forms;

(2) pursue the findings of research authorized by this Act having potential applications in matters other than geothermal energy to the extent that such findings can be published in a form for utilization by others;

(3) conduct engineering and technical work including the design, construction, and testing of pilot plants to develop and improve geothermal energy processes and plant design concepts to the point of demonstration on a commercial scale;

(4) conduct laboratory and field experiments and tests of technologies necessary for the successful development of all forms of geothermal resources;

(5) study methods for the reduction and

elimination of undesirable environmental impacts of geothermal development;

(6) study methods for the recovery and marketing of byproducts resulting from the production of energy from geothermal resources; and

(7) undertake engineering and economic studies to determine the potential for energy from geothermal resources to contribute to energy requirements on national and regional levels.

(b) The Commission shall coordinate the research and development activities authorized by this section with the activities of the Department of the Interior relating to geothermal resources research to insure the full utilization of expertise and information and to prevent duplication of efforts.

SEC. 208. (a) The Commission is authorized to investigate, negotiate, and enter into cooperative agreements with non-Federal utilities, industries, and governmental entities for the construction, operation, and maintenance of demonstration developments for the production of electric or heat energy, water supplies, or minerals from geothermal resources.

(b) No agreement shall be entered into under the authority granted by this section unless the Commission determines that:

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factors of the proposal offer opportunities to make important contributions to the general knowledge of geothermal energy, the techniques of its development, or public confidence in the technology;

(2) the potential non-Federal cooperating entities are willing and capable to make contributions toward the capital cost of the development, to operate the facilities, and to provide a market for the energy produced;

(3) no benefits have been obtained through the loan guaranty provisions of title I of this Act and applied to development of any facility for which funding assistance pursuant to this title is proposed;

(4) the development or the practical benefits of the development as set forth in clause (1) of this subsection are unlikely to be accomplished without Federal assistance or through the assistance provided by title I of this Act; and

(5) the Federal investment in each such development project will not exceed $10,000,000.

(c) The Commission is authorized to investigate potential agreements for the cooperative development of major facilities to demonstrate the production of energy from geothermal resources and to submit engineering and financial proposals to the Congress for consideration of authorization to proceed with implementation of said proposals. The Commission may consider:

(1) cooperative agreements with non-Federal governmental entities and utilities for construction of facilities to produce energy for commercial disposal;

(2) cooperative agreements with other Federal agencies for the construction and operation of facilities to produce energy for direct Federal consumption.

(d) Before favorably considering proposals under subsection (c) of this section, the Commission must find that:

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factor of the proposal offer opportunities to make important contributions to the general knowledge of geothermal energy, the techniques of its development, or public confidence in the technology;

(2) the development or the practical benefits as set forth in clause (1) of this subsection are unlikely to be accomplished without such cooperative development; and

(3) where non-Federal participants are involved, the proposal is not eligible for adequate Federal assistance under the loan guarantee provisions of title I of this Act.

SEC. 209. There are authorized to be appropriated to remain available until expended to carry out the purposes of this title:

(a) $10,000,000 for fiscal years 1974, 1975, and 1976 to the Secretary of the Interior.

(b) $35,000,000 for fiscal years 1974, 1975, and 1976 to the Atomic Energy Commission;

(c) such amounts as may be required in fiscal years 1974, 1975, and 1976 to NASA.

SEC. 210. As used in this Act, the term—

(a) "geothermal resources" means (A) all products of geothermal processes, embracing indigenous steam, hot water, and brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; and (C) any byproduct derived from them;

(b) "qualified borrower" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which the Secretary has determined has presented satisfactory evidence of a property interest in a geothermal resource identified, in a manner acceptable to the Secretary, as being of sufficient interest for research objectives, or the development and production of energy, and which has the financial responsibility to establish and operate, ultilizing such resource, a commercial facility;

(c) "pilot plant" means an experimental unit of small size used for early evaluation and development of new or improved processes and to obtain technical and engineering data; and

(d) "demonstration development" means a complete facility which produces electricity or heat energy for commercial disposal from geothermal resources and which will make a significant contribution to the knowledge of full-sized technology, plant operation, and process economics.

Mr. BIBLE. Mr. President, the bill we have before the Senate today, S. 2465, the proposed Geothermal Energy Act, if enacted, will authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy, to coordinate Federal activities in geothermal energy exploration, research, and development, and provide the needed legislative direction for an emphatic program for the assessment and development of this Nation's geothermal energy resources.

In this measure, the Senate has, once again, the opportunity to consider legislation to provide guidance for the development of our geothermal energy resources. As the Senators will recall, language nearly identical to S. 2465 was included as title II of S. 1283, the National Energy Research and Development Policy Act of 1973, which was unanimously approved by the Senate on December 7, 1973. Senate approval today of S. 2465 will reconfirm our interest in the development of this resource for the benefit of the public and the Nation, and will facilitate final action by the House of Representatives on this important aspect of energy research and development.

The proposed Geothermal Energy Act represents a joint effort by my good friend, the senior Senator from Arizona, and myself, and I want to commend the Senator from Arizona for his initiative and leadership, not only in connection with this bill, but in respect to geothermal resource matters generally. He has demonstrated his dedication to the task of making geothermal power a reality and, in so doing, he shares my great optimism for the future of this technology.

The Geothermal Energy Act is, in a sense, a sequel to the Geothermal Steam Act of 1970, which it was my privilege to author and shepherd through Congress. This new act clearly reflects the longstanding and continuing interest of the Senate Committee on Interior and Insular Affairs in this Nation's geothermal energy resources. Extensive hearings and field investigations by the members of the committee and careful deliberation within the committee pointed the direction to this, the final version of the legislation which we have before us today.

I ask unanimous consent that excerpts from Senate Report 93–849, which accompanied S. 2465 upon its being reported to the full Senate by the Interior Committee, appear in the RECORD at the conclusion of my remarks. The report sets forth in detail the longstanding interest of the Senate Interior Committee in geothermal energy and the legislative history of S. 2465.

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

(See exhibit 1.)

Mr. BIBLE. I firmly believe that this Nation's geothermal energy resources represent a vast, potentially clean energy source for the generation of electric power in many of our Western States. Evidence of the resource is well documented in Arizona, California, Idaho, New Mexico, Nevada, Oregon, and elsewhere.

The problems we as a nation face in assuring sufficient energy from domestic sources call for strong efforts on the part of all levels of government and industry. The harnessing of the natural energy found in geothermal resources can and should play a significant role in solving these problems. The Federal Government must mount a concerted and coordinated research and development program to demonstrate the feasibility of harnessing geothermal power and private industry must be encouraged to invest its own resources in geothermal exploration and development. In short, if the Nation is to receive the benefits of geothermal power within the next decade, government and industry are going to have to join forces in a cooperative effort. The Government's lead role in research and development needs new direction and emphasis and meaningful incentives must be provided to encourage private action and investment. The Geothermal Energy Act will provide that direction and the needed incentives.

Essentially, title I of the bill is designed to encourage and facilitate private investment in geothermal exploration and development ventures. It establishes a long guarantee program under which the Secretary of the Interior would be authorized to provide loan guarantees covering up to 75 percent of the aggregate cost of a project, subject to limitations described in the bill.

Title II of the bill proposes to strengthen and coordinate the geo-

thermal research and development programs of the Department of the Interior, the Atomic Energy Commission, and the National Aeronautics and Space Administration. The Department of the Interior would be assigned the primary responsibility for geothermal exploration, mapping and surveys, and other activities needed to define the Nation's geothermal resources inventory. NASA would be called upon to bring the benefits of satellite technology to bear on the exploration problem.

The AEC, which may soon become the nucleus of a new Energy R. & D. Administration (ERDA), would be assigned the primary basic and applied geothermal research and development task. Special emphasis will be placed on the need for cooperative undertakings with private industry to develop and test the technologies required to tap and harness geothermal energy. Special authority is included for cooperative pilot projects designed to demonstrate the economic and technical feasibility of geothermal power production.

We also have pending before us, H.R. 14924, the House passed version of S. 2465. The House bill seeks to provide the same general direction for the Federal Government and incentives for the private sector, as contained in S. 2465. The objective of both bills is the same: the assurance of timely and orderly development of our geothermal energy resources to aid in the solution of the energy shortages facing our Nation.

Both bills would establish a loan guarantee program to facilitate the financing of geothermal resource development ventures undertaken by private enterprise. Both bills also would draw upon the existing expertise of several Federal agencies to initiate a coordinated program to inventory the Nation's geothermal resources and to advance the technological capabilities to develop them. The bills are quite similar in the detailed activities which they contemplate, but they differ in their approach to the coordination and management of the Federal responsibilities.

It is my belief that the Senate should adopt S. 2465 and then amend H.R. 14924 with the language of the Senate bill and send it back to the House. If the House objects to the Senate amendment, and requests a conference, I am confident that a reasonable compromise can be worked out between the conferees.

EXHIBIT 1

EXCERPTS FROM SENATE REPORT NO. 93-849 TO ACCOMPANY S. 2465

GEOTHERMAL ENERGY EXPLORATION, RESEARCH AND DEVELOPMENT

II. Background

The Senate Committee on Interior and Insular Affairs has been concerned with geothermal resources for many years. Under the leadership of Senator Bible, the committee developed legislation which culminated in the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025).

In June of 1972, as part of the committee's study of National Fuels and Energy Policy being conducted pursuant to Senate Resolution 45, 92nd Congress, hearings were held on geothermal energy resources and research which provided an overview of the state of technology and the potential of the resource as a new energy source.

On June 13, 1973, the Subcommittee on Water and Power Resources began a detailed investigation of the potential for the production of power from geothermal resources with a hearing in Washington, D.C. At that hearing, the following Federal agencies, which have programs related to geothermal energy, were requested to present testimony in response to specific questions posed by the subcommittee:

(1) The Department of the Interior.
(2) The Atomic Energy Commission.
(3) The National Science Foundation.
(4) The National Aeronautics and Space Administration (NASA).

Subsequent to that hearing, the subcommittee conducted field hearings and inspections of existing and potential geothermal developments. On August 8, an inspection was made of the Geysers Geothermal Power Development of the Pacific Gas & Electric Co. in California which is the only operating geothermal electric facility in the United States.

On August 10, an inspection was made by helicopter of geothermal areas in southern Idaho, which are being considered for early development for power production. On that date, also, the subcommittee held a public hearing in Idaho Falls, Idaho, to take testimony from witnesses including public officials, authorities in geothermal energy, representatives of industrial concerns involved in energy and various citizens groups and individuals.

On August 11, a similar subcommitte hearing was held in Klamath Falls, Oreg. The hearing at Klamath Falls was conducted at the Oregon Technical Institute, in a modern academic building complex which is entirely heated from geothermal wells.

The results of the subcommittee's investigations have been compiled in a report to the Senate which will be available shortly.

S. 2465, a bill introduced on September 24, 1973, by Senators Bible, Fannin, Bartlett, Buckley, Church, Hansen, Haskell, Hatfield, Jackson, Johnston, McClure, and Metcalf, is to a considerable extent based upon the evidence of the investigation concerning the need for definition of the Federal role in geothermal energy.

The Subcommittee on Water and Power Resources held a hearing on S. 2465 on November 7, 1973. The text of S. 2465, with minor amendments, was adopted as a new title II of S. 1283 on November 27, 1973.

S. 1283, the "National Energy Research and Development Policy Act of 1973" was passed by the Senate with a unanimous vote on December 7, 1973 including the substance of S. 2465 as a Title II.

Action in the House of Representatives on S. 1283 raises some question as to whether the Geothermal Energy Act can be enacted as Title II of that measure. To insure full consideration of S. 2465 and to facilitate action by the House, the Committee on Interior and Insular Affairs again considered S. 2465 and ordered it reported separately on May 2, 1974.

III. Co-sponsors of S. 2465

The following is a list of co-sponsors of S. 2465:

Mr. Bible, Mr. Fannin, Mr. Bartlett, Mr. Buckley, Mr. Church, Mr. Hansen, Mr. Haskell, Mr. Hatfield, Mr. Jackson, Mr. Johnston.

Mr. McClure, Mr. Metcalf, Mr. Goldwater, Mr. Domenici, Mr. Abourezk, Mr. Gurney, Mr. Nelson, Mr. Stevens, Mr. Tunney.

IV. Need for the measure

The Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs conducted a detailed study in 1963 of the potential for energy production from geothermal resource. The Subcommittee subsequently adopted a report including findings and recommendations as follows:

I. Findings and Recommendations

A. Findings

1. Electric power production from geothermal resources has been shown to be technically and economically feasible in certain locations and is presently providing 400 megawatts of electricity in the United States.

2. The geothermal resources of the United States hold a potential for the production of substantial amounts of energy in the form of heat and electric power. They hold special promise for making a significant contribution to regional power supplies.

3. Potential geothermal technologies offer the possibility of providing environmentally attractive energy production techniques.

4. The available information about the resource is not adequate to form reliable estimates on the nature and extent of geothermal resources or to support reliable estimates of the probable rate of geothermal energy development. There is a need for increased exploration and classification of geothermal resources.

5. There is a wide margin of uncertainty concerning the potential magnitude of geothermal energy development and the schedule of achievement of technological capabilities.

6. Geothermal resources occur in a variety of types and situations which pose widely different types of technological problems.

a. Dry-steam geothermal systems have been developed successfully but their total potential is believed to be limited.

b. Wet-steam geothermal systems have been harnessed for useful applications, but the ultimate utility of the resource depends upon development of methods to develop energy from low-temperature brines and the successful resolution of engineering and environmental problems.

c. Hot dry-rock systems may offer the greatest power potential over the long run, but significant research and development work (including drilling technology and advanced binary cycle heat exchange work) will be required to develop this resource.

d. Geopressured brines are believed to have potential for energy development, but exploration and research on this form of geothermal resource are especially limited.

7. There is considerable interest on the part of private industry in developing geothermal energy. However, the lack of a Federal leasing program, financing impediments, and the risk involved in advanced technologies are inhibiting development.

8. There is a lack of aggressive governmental leadership in the development of geothermal energy. There is no lead agency and as a result research and development is sporadic and uncoordinated.

9. The Department of the Interior's implementation of the Geothermal Steam Act, which has been law since 1970, has not yet resulted in regulations which will permit orderly development of attractive resources on the public lands.

10. The present Federal geothermal R.&D. program lacks clearly enunicated goals and objectives, coordinated management or adequate funding for the exploration, research, and development activities which are needed.

11. There is a need for small-scale demonstration projects which produce power from geothermal resources to provide experience with and confidence in the resource use.

12. There is a need for more Federal assistance in exploration, research, development, and demonstration of geothermal technology and for financial assistance to non-Federal developments.

B. Recommendations

1. The Department of the Interior should take steps to insure prompt issuance of the final environmental impact statement on its leasing regulations formulated pursuant to the Geothermal Energy Act of 1970.

2. A lead agency should be designated to take responsibility for advancing geothermal energy resources research and development.

3. Exploration activity for geothermal energy resources should be greatly accelerated.

4. The level of funding for Federal research and development activities in geothermal energy resources should be greatly increased from the present level.

5. In order to facilitate private development of geothermal resources, a financial assistance program should be initiated to overcome some of the uncertainties associated with new technology development.

The provisions of S. 2465 would carry out the legislative action recommended by the Subcommittee. A discussion of the background for the recommendations is included in the subcommittee's report.

Mr. BIBLE. Mr. President, I move the committee amendments be approved and adopted en bloc.

The motion was agreed to.

Mr. BIBLE. Mr. President, I send some technical amendments to the desk.

The PRESIDING OFFICER. The clerk will report the technical amendments.

The legislative clerk read as follows:

1. On page 1, line 4, strike "1973" and insert "1974."

2. On page 2, line 16, strike the words "to guarantee," where they first appear.

3. On page 14, on lines 8, 10 and 13, strike the word "1974," in each instance.

Mr. BIBLE. Mr. President, just a brief explanation. Simply, two of the amendments are amendments which correct the dates to update it from the time that the bill was originally considered by the committee. One is on page 1, line 4, the next is on page 2, line 16.

The third amendment is to strike the words "to guarantee," because that is repetitious. It has been repeated twice.

Mr. President, I ask that the technical amendments be agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing en bloc to the technical amendments.

The amendments were agreed to.

Mr. BIBLE. Mr. President, I yield to my distinguished colleague, the Senator from Idaho (Mr. CHURCH).

Mr. CHURCH. Mr. President, I rise to join the distinguished senior Senator from Nevada in his remarks regarding S. 2465, the Geothermal Energy Act. The Senator from Nevada is to be commended for his outstanding leadership in geothermal legislation and his firm guidance during consideration of S. 2465 by the Senate Interior and Insular Affairs Committee. I also commend the senior Senator from Arizona (Mr. FANNIN) for his support and leadership in perfecting this legislation. The minority counsel, Mr. Dave Stang, was of great assistance in preparing the bill.

It was my privilege, as chairman of the Interior Committee's Subcommittee on Water and Power Resources, to have this legislation before my subcommittee. I will not dwell upon the significance of energy research to our major national goals. Although our energy situation—or energy crisis—was belatedly discovered, it is well enough recognized today. We live in a society which depends upon intensive energy uses for its well being. Our burgeoning demands for energy have overrun the limited supplies from many conventional domestic sources, making us increasingly dependent upon insecure and economically disastrous imports. The production, conversion, and use of energy, furthermore, are major causes of some of our most pressing environmental problems. Every possible technological option for new, environmentally attractive, domestic energy sources must now be pursued so that we will have the policy choices in the future which we lack today.

The Senate's decision today to give special attention to the geothermal resource, the energy of Earth's heat, is a well-founded one. As a member of the Senate Interior and Insular Affairs Committee, I have been interested in geothermal resources for some time. Many of the most attractive and readily accessible geothermal sources which are known to exist in the United States are on the public lands of the West, and the Interior Committee, under the leadership of the Senator from Nevada, worked for several years on measures which lead to the enactment of the Geothermal Steam Act of 1970. That act established a geothermal leasing policy for the public lands.

Geothermal resources defy generalizations. There are really a great many types of geothermal resources, and they represent varied opportunities and challenges. The most easily developed resource, easily accessible hot dry steam, is not a speculative energy source. It is a reality today.

In California, the Geysers power development of the Pacific Gas & Electric Co. is producing electricity approximately equal to the demands of the city of San Francisco and it is producing it at costs which are easily competitive with the most attractive alternative sources.

The occurrences of dry geothermal steam, unfortunately, do not appear to be extensive. Most known geothermal resources will be technologically more difficult to develop. Where naturally occurring steam is of lower temperature and contains more water, for example, difficult corrosion and brine handling problems are encountered and, in some situations, binary-cycle devices may be necessary to achieve efficient electric power generation.

There does, however, appear to be a good possibility of early and significant development of such resources. Electricity is being produced from wet-steam systems in other nations, and a binary system is being constructed in California. Of course, there are numerous applications of geothermal brines as domestic and commercial heat sources, in my own State of Idaho and elsewhere in the Western States.

There appears to be an attractive potential for the development of small—10 to 25 megawatt—powerplants based upon wet-steam resources. Opportunities for such installations are abundant in the west would welcome alternative installations of small capacity are feasible, they would be an important accomplishment. Most modern fossil fuel plants for base load operation must be very large to achieve the economies of scale. Many small electric utilities serving the rural West would welcome alternative installations of relatively small capacity, and the dispersal of generation would enhance the reliability of major regional power systems.

Dry geothermal resources are a form which, perhaps, offer the most exciting possibilities for the long-term future. Hot formations unusually close to the surface of the Earth are known in a number of localities. If appropriate drilling and heat exchange technologies were developed, the energy of these anomalies could be used for electrical generation and industrial process heat. It is possible that some applications could be achieved in the near future. If the technologies could be brought to a very high degree of sophistication, moreover, the Earth's natural heat would provide a virtually inexhaustible source of energy which occurs everywhere. Along with solar energy, hydrogen fuels, and nuclear fusion, it deserves study as a solution to the inevitable exhaustion of conventional fuels.

Unfortunately, there is no present concerted Federal program for research and development of geothermal resources. There are a few agencies which are interested in the resource and there are some small, tentative activities underway. These efforts lack a sense of urgency. They lack a lead agency with specific authority to coordinate Federal responsibilities for geothermal research and to cooperate with industry in a planned program of exploration, research, and development.

Mr. President, today the Senate has the opportunity to chart the course of geothermal energy resource development for the next decade. It is imperative that we act without delay. I urge my colleagues to adopt S. 2465 which will provide sound guidance for the Federal support of geothermal energy development.

Mr. BIBLE. Mr. President, I appreciate the views of the Senator from Idaho. He has been a long-time supporter in this field of geothermal legislation.

Mr. President, I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I am pleased to rise in support of the Geothermal Energy Act of 1973, which I cosponsored, to establish a national program for research, development, and demonstration of commercial geothermal resource technology.

Senator BIBLE is to be congratulated for his leadership in recognizing the importance of geothermal energy and fathering legislation designed to induce its development. Having authored the Geothermal Steam Act of 1970, he is now sponsoring additional legislation in this field. It has been my pleasure to work closely with him in developing this legislation to promote the early commercialization of geothermal energy. We are also pleased by the strong leadership toward this end on the part of the distinguished chairman of the Water and Power Resources Subcommittee, Senator CHURCH, and his colleague from Idaho Senator MCCLURE, also cosponsors of this bill, who contributed generously. The distinguished majority staff member Mr. Dan Dreyfus, too, has performed commendable service in working for many

years on this particular program. He deserves much credit for his long hours of work.

Incentives are provided in this bill which would result in the production of useful energy from geothermal resources, within environmentally acceptable standards, and at minimum cost to the taxpayers. A higher level of private activity and innovation would be encouraged by this legislation so that geothermal technology would be perfected to help meet our energy self-sufficiency objectives. The bill stimulates industrial R. & D. in geothermal energy through a loan guarantee program. By coordinating Federal activities in both geothermal energy exploration and research and development, it would ensure improved utilization of new technology.

This resource can soon make a substantial contribution to our electrical generating capacity, particularly in the West. It is important that its existing potential be understood. To date the U.S. Geological Survey has classified as known geothermal resources areas about 1.8 million acres of land in the Western States, much of it on Federal lands. Nevertheless, the Interior Department has been disappointingly slow in implementing the Geothermal Steam Resources Act of 1970, which authorized the development of a Federal geothermal leasing program.

Despite Government policies affecting Federal lands which have served as obstructions to geothermal resource development by private enterprise, the efforts of Geothermal Kinetics Systems Corporation of Phoenix has gone forward. This group of three major Arizona utility companies, by operating on privately owned leased land Arizona's first geothermal well near the city of Chandler, has shown how quickly geothermal resources can be located. This still is an experiment, and the economic feasibility of using the wells is now under study. The most exciting aspect of this project is that it shows how rapidly progress can be made.

As an incentive to stimulate development, the bill in title I would authorize the Secretary of the Interior to administer a guarantee program covering loans made for exploration, development, and construction and operation of geothermal facilities. This loan guarantee program, Mr. President, would induce banks and other financial institutions to take greater risks in their funding of innovative and creative energy-related technologies.

Title II, Coordination of Federal Activities in Geothermal Energy Exploration, Research, and Development, would encourage the orderly development and demonstration of practicable means to produce useful energy from geothermal resources by environmentally acceptable processes. The Secretary, through the Geothermal Survey, would conduct an orderly exploration of all forms of geothermal resources, identifying potential reservoirs of geothermal resources. Data from such explorations would be made available to encourage the commercial development of geothermal resources. In addition, the Secretary would make legislative recommendations on and participate with the AEC, NASA and the National Science Foundation in research to develop and implement technologies for the discovery and evaluation of geothermal resources.

Under title II, the Atomic Energy Commission in cooperation with private industry would conduct, encourage, and promote scientific research to develop effective, economical, and environmentally acceptable processes and equipment to develop geothermal resources. This would facilitate design, construction, and testing of pilot plants. The Commission would also enter into cooperative cost-sharing agreements with private industry for demonstration developments for the production of electric or heat energy from geothermal resources.

The Administrator of the National Aeronautics and Space Administration would be authorized to prepare a proposal for the employment of space technologies and the services of NASA for the exploration and mapping of geothermal resources.

Mr. President, this bill would encourage the commercial development of geothermal resources by funding pilot and demonstration projects. Its loan guarantee provisions would also give a boost to early commercialization of geothermal energy.

The Federal Government must assume partial responsibility for facilitating commercialization of geothermal energy resources so that the Nation's critical energy needs can be met. Our technological options and capabilities must be developed in a timely and efficient manner so that our temporary energy shortages do not cripple us permanently. Geothermal power, a "renewable" and clean source of electric power generation from the heat contained within the Earth, can become a major new source to provide us energy.

In conclusion, I am pleased that the House patterned its bill so closely after ours and I am hopeful that the House will accept our substitute for its bill, H.R. 14920. If not I look forward to cordial and expeditious conference with our distinguished colleagues in the House.

Mr. BIBLE. I thank my distinguished colleague and neighbor to the south of my State. He likewise has a great interest in this area. This offers a great possibility in the future. Italy, Iceland, Australia and other nations have pioneered this into operation, and Lardarello, Italy, since 1904. The interesting part of the Italian geothermal project is that there has been very little diminution of the supply. One only has to look to California, the State neighboring my State and the State of the Senator from Arizona, to Geyserville to see how it supplies electricity. It has great possibilities. This will move the operation forward.

There are differences between the House-passed bill and the bill I expect will be passed here today, but I do not think the difficulties will be too great when we go to conference. We will try to move quickly to get the necessary financing.

Mr. McCLURE. Mr. President, as a cosponsor of S. 2465, I rise in support of the Geothermal Energy Act. Idaho cannot help but benefit from this legislation.

I recall that as part of our efforts within the Interior Committee associated with the preparation of this legislation, last August 10, Senator CHURCH and I conducted a helicopter inspection of geothermal areas in southern Idaho which are being considered for early development for power production. The same day we participated in committee hearings held in Idaho Falls where testimony was heard from many of the Idaho citizens active in the development of geothermal energy.

I am pleased that the bill will soon become law and that because of this legislation Idaho may reap the benefits it so properly deserves for its leadership in developing geothermal energy.

My colleagues here today have ably described the individual provisions of the bill. Suffice it to say that the legislation calls for the creation of a number of geothermal programs which might be of direct and abundant assistance to Idaho.

I also wish, at this time, to commend my colleagues, Senators FANNIN and BIBLE, for their active leadership in moving forward with this very promising and innovative legislation.

Mr. JACKSON. Mr. President, I rise to support the enactment of S. 2465, the Geothermal Energy Act, a bill which will provide congressional policy guidance for the Federal activities in inventorying geothermal resources and in research and development of geothermal technologies. This measure also will establish a program of loan guarantees to facilitate financing of geothermal ventures by private or non-Federal public entities.

Geothermal energy, in the past few months, has begun to receive the recognition it deserves as a potential source of clean, domestic energy. The energy crisis and soaring prices for fossil fuels have focused attention upon the geothermal opportunities which have been used in limited applications for decades.

There are extensive known geothermal areas in the Western United States, but there has been little detailed exploration and the actual potential extent of promising resources may be much greater. Almost certainly, if relatively modest advances in technology can be achieved, geothermal reosurces can make an important contribution to national energy supplies.

Until now, there have been only token efforts to accelerate geothermal exploration and development. The fiscal year 1975 appropriation request for Federal geothermal activities—$44.7 million for all agencies—for the first time will provide a level of funding adequate to initiate a sound Federal exploration and R. & D. program.

Funds alone, however, do not insure a good effort. There still is no statement of congressional policy on geothermal research and development. The responsibilities of the several agencies which are involved with geothermal resources—the AEC, the Interior Department, and the National Science Foundation—are unclear. The leadership is constantly shifting. State agencies and private entities interested in cooperative efforts are frustrated in their attempts to deal with the

Federal Government. The authority of the agencies to embark upon field demonstrations is ill-defined. This measure would clearly express congressional policy on these matters.

The loan guarantee program of title I of S. 2465, furthermore, would assist non-Federal entities in obtaining reasonable financing for geothermal ventures. The uncertainties and the lack of experience with geothermal development presently inhibit financing of organizations interested in such ventures. The Federal guarantee would greatly expand the ability of potential participants to undertake the easier types of geothermal development with the minimum of Federal involvement or cost.

The Senate Interior Committee has had an interest in geothermal energy for many years. The Geothermal Leasing Act of 1970 was the result of extensive consideration of the leasing policy for geothermal resources of the public lands. The measure before the Senate today is also the result of extensive committee investigations into the problems of geothermal development. The language has previously been approved by the Senate as title II of S. 1283, a general energy research and development strategy bill which unanimously passed the Senate in December of 1973. It is being proposed today as separate legislation to facilitate House consideration.

I commend the senior Senator from Idaho (Mr. CHURCH) who, as chairman of the Water and Power Resources Subcommittee, conducted the investigations leading to this measure, and the senior Senators from Nevada and Arizona (Mr. BIBLE and Mr. FANNIN) who are the principal sponsors of this bill and who have shown leadership in geothermal policy over the years.

I urge my colleagues to give favorable consideration to the measure.

Mr. HATFIELD. Mr. President, I join with my colleagues who have cosponsored this legislation in expressing my pleasure in seeing the attention geothermal energy is finally receiving. We have long known the possibilities for tapping the heat of the Earth; we have seen the potential unfolding at orders of magnitude beyond our early calculations; but it has taken an energy crisis to overcome the inertia that has unnecessarily delayed our moving aggressively in the geothermal direction.

I would especially like to compliment the unstinting efforts of the distinguished senior Senator from Nevada (Mr. BIBLE), whose leadership in this area will be missed following his retirement this year. We who will carry on in the Interior Committee will have to fill some very big shoes.

Mr. BIBLE. Now, Mr. President, unless other Senators desire to speak I ask unanimous consent that the Senate proceed to the consideration of H.R. 14920, a companion bill passed by the House; that all after the enacting clause be stricken; and that the text of S. 2465, as amended, be substituted therefor.

The PRESIDING OFFICER. Without objection it is so ordered.

The Senate proceeded to consider the bill (H.R. 14920) the Energy, Geothermal Energy Research, Development, and Demonstration Act of 1974.

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

Mr. BIBLE. I yield.

Mr. MANSFIELD. Mr. President, I have asked the Senator to yield only for a point of information.

We have a geothermal operation going on in Montana at the present time at the site of a well-known mine near Marysville, about 20 miles from Helena. Would a project of that sort be eligible for assistance under this act?

Mr. BIBLE. I do not have the details of the Montana project, but it would certainly improve the opportunities of their receiving additional financing. As I understand the Montana project, and as I am advised by Dan Dreyfus, our expert in this field, the Montana project is presently financed by the National Science Foundation.

Mr. MANSFIELD. That is correct.

Mr. BIBLE. And this bill would improve, implement, and increase the available funding, to try to get the results at the earliest possible time.

Mr. MANSFIELD. Provided it showed promise?

Mr. BIBLE. That is correct. Certainly every geothermal prospect in the United States is not going to work out, but many will.

Mr. MANSFIELD. I thank the distinguished chairman of the committee.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 14920) was read the third time and passed.

The title was amended so as to read:

To authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy; to coordinate Federal activities in geothermal energy exploration, research and development; and for other purposes.

The PRESIDING OFFICER. Without objection, S. 2465 will be indefinitely postponed.

ESTABLISHMENT OF LEGAL SERVICES CORPORATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on my motion on the Legal Services bill occur at the hour of 12:30 p.m. on Tuesday next. It is my understanding that this has been cleared with the distinguished Senator from North Carolina (Mr. HELMS); the distinguished Senator from Idaho (Mr. MCCLURE); the distinguished Senator from Tennessee (Mr. BROCK); I believe the distinguished Senator from Alabama (Mr. ALLEN); the distinguished Senator from Wisconsin (Mr. NELSON); the distinguished Senator from Ohio (Mr. TAFT); and the distinguished Senator from New York (Mr. JAVITS). That is for a 12:30 vote on the motion to insist on the Senate amendments, which I proposed yesterday.

Mr. NELSON. I did not hear the first part of the Senator's statement.

Mr. MANSFIELD. That the vote occur at 12:30 next on the motion which I offered.

Mr. NELSON. I have no objection.

Mr. TAFT. I have no objection.

Mr. MANSFIELD. I understood that the Senator from New York is agreeable.

Mr. MCCLURE. Mr. President, reserving the right to object, will the Senator from Montana yield for a couple of questions?

Mr. MANSFIELD. Surely.

Mr. MCCLURE. One is that the request was for a vote upon the motion that is now pending before the Senate that was lodged yesterday on this matter?

Mr. MANSFIELD. That is correct; it is the motion which I offered.

Mr. MCCLURE. Yes. Was there also the further understanding that there would be no vote on the cloture motion tomorrow if this unanimous-consent request is agreed to?

Mr. MANSFIELD. Exactly. If that is done, then I will ask that the cloture motion for tomorrow be vitiated.

Mr. MCCLURE. Mr. President, I withdraw my reservation.

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

Mr. MANSFIELD. Mr. President, I ask that the cloture motion on which a vote was to occur 1 hour after the Senate opened for business tomororw, be vitiated.

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

ORDER FOR PRINTING ADDITIONAL COPIES OF HEARINGS CONCERNING IMPEACHMENT INQUIRY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of House Concurrent Resolution 559.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 559.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for use of the Committee on the Judiciary twenty thousand additional copies of all parts of its hearings concerning the impeachment inquiry, pursuant to H. Res. 803.

SEC. 2. There shall be printed for the use of the House Committee on the Judiciary fifty thousand additional copies of its final report to the House.

Mr. CANNON. Mr. President, it is with the greatest reluctance that I must say I cannot go along with requests which we have received from distinguished Members of the other body who would like for the Senate to approve today without Rules Committee consideration the proposal in House Concurrent Resolution 559 which would authorize expenditure of $989,094.72 for printing various House Judiciary Committee documents

relative to the current impeachment inquiry.

I recognize the tremendous importance of the work being done by the House Judiciary Committee and I know that every effort must be taken to make sure the American public has the fullest possible access to all information about it.

However, I am advised that $921,306.72 of the requested amount would go to pay for publication of 13 volumes of Judiciary Committee staff reports to the committee and to me this would constitute a waste of the taxpayer's money.

I have been advised that if we approve this nearly $1 million worth of printing all at once it would amount to approximately 100 truck loads of documents to be delivered to the House Judiciary Committee and the simple problem of storage for this much paper is a staggering one.

In sum, Mr. President, I feel as chairman of the Rules and Administration Committee I could not support this vast expenditure for printing just one collection of committee documents, because I think it would be an unwise investment of the taxpayers' money.

Mr. HUGH SCOTT. Mr. President, at a time when all Americans feel the crunch of inflation, when prices are rising, when Government spending is skyrocketing, how terribly ill-advised it is to talk about spending a million dollars of taxpayers' money to print over 100 truckloads of material. What an extravagant waste of money.

How can the Congress urge consumer restraint when it turns right around and throws a million dollars to the wind? I object to proceeding in this way, and I hope that our friends in the other body will reconsider their action.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MANSFIELD. 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:

On page 1, after line 8, add a new section, as follows:

SEC. 3. The Superintendent of Documents shall make additional copies available for purchase by the general public at no less than cost.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 559), as amended, was agreed to as follows:

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for use of the Committee on the Judiciary twenty thousand additional copies of all parts of its hearings concerning the impeachment inquiry, pursuant to H. Res. 803.

SEC. 2. There shall be printed for the use of the House Committee on the Judiciary fifty thousand additional copies of its final report to the House.

SEC. 3. The Superintendent of Documents shall make additional copies available for purchase by the general public at no less than cost.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 2830. An act to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus; and

S. 2893. An act to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next three fiscal years.

The PRESIDENT pro tempore (Mr. EASTLAND) subsequently signed the enrolled bills.

AMENDMENT OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT

The Senate continued with the consideration of the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis.

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

The PRESIDING OFFICER. The pending business is S. 3355.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistance legislative clerk proceeded to call the roll.

Mr. 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.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 2465 be indefinately postponed.

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

Mr. ERVIN. Mr. President, I ask unanimous consent that the following persons or aides have the privilege of the floor during the consideration of this amendment: Mark Gitinstein and Britt Snider, on my behalf, and Doug Marvin and Charles Bruse on behalf of Senator HRUSKA.

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

Mr. PERCY. Mr. President, I ask unanimous consent that Robert Sloan, a member of the staff of the Government Operations Committee, be permitted the privilege of the floor during the consideration of the pending bill.

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

AMENDMENT OF THE ATOMIC ENERGY ACT OF 1954

Mr. MANSFIELD. Mr. President I ask unanimous consent that the pending business be laid aside temporarily, and the Senate proceed to consider S. 3669, calendar 951.

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

The assistant legislative clerk read as follows:

A bill (S. 3669) to amend the Atomic Energy Act of 1954, as amended, and the Atomic Weapons Rewards Act of 1955, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Joint Committee on Atomic Energy with an amendment on page 4, at the end of line 9, to strike out the following:

Provided, however, That (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 123, to distribute to the Agency seventy-five thousand kilograms of contained uranium 235, five hundred grams of uranium 233, and three kilograms of plutonium; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however*, That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Joint Committee, and a period of thirty days shall elapse while Congress is in session (in computing the thirty days there shall be excluded the days in which either House is not in session becaue of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the condition of, or all or any portion of, such thirty day period.

and insert in lieu thereof the following:

Provided, however, That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 123, to distribute to the Agency five thousand kilograms of contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however*, That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Joint Committee and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further*, That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further*, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the pro-

posed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Atomic Weapons Rewards Act of 1955 is amended as follows:

(a) The initial section of the Act is amended by striking out the words "Atomic Weapons Rewards Act of 1955" and by substituting in lieu thereof "Atomic Weapons and Special Nuclear Materials Rewards Act."

(b) Sections 2, 3, and 5 of the Act are amended to read as follows:

"SEC. 2. Any person who furnishes original information to the United States—

"(a) leading to the finding or other acquisition by the United States of special nuclear material or an atomic weapon which has been introduced into the United States or manufactured or acquired therein contrary to the laws of the United States, or

"(b) with respect to the introduction or attempted introduction into the United States or the manufacture or acquisition or attempted manufacture or acquisition of, or a conspiracy to introduce into the United States or to manufacture or acquire, special nuclear material or an atomic weapon contrary to the laws of the United States, or

"(c) with respect to the export or attempted export, or a conspiracy to export, special nuclear material or an atomic weapon from the United States contrary to the laws of the United States,

shall be rewarded by the payment of an amount not to exceed $500,000.

"SEC. 3. The Attorney General shall determine whether a person furnishing information to the United States is entitled to a reward and the amount to be paid pursuant to section 2. Before making a reward under this section the Attorney General shall advise and consult with the Atomic Energy Commission. A reward of $50,000 or more may not be made without the approval of the President.".

"SEC. 5. (a) The Attorney General is authorized to hold such hearings and make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act.

"(b) A determination made by the Attorney General under section 3 of this Act shall be final and conclusive and no court shall have power or jurisdiction to review it.".

(c) Section 6 of the Act is amended by deleting the words "Awards Board" and by substituting in lieu thereof the words "Attorney General".

SEC. 2. Section 54 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 54. FOREIGN DISTRIBUTION OF SPECIAL NUCLEAR MATERIAL.—a. The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 123. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however,* That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 123, to distribute to the Agency five thousand kilograms of contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however,* That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Joint Committee and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further,* That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further,* That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 104, established by the Commission pursuant to section 56, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

"b. Notwithstanding the provisions of sections 123, 124, and 125, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 57d., exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this chapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

"c. The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.".

SEC. 3. Section 57 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following new subsection:

"d. The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.".

SEC. 4. Section 81 of the Atomic Energy Act of 1954, as amended, is amended by deleting the word "licensees" and inserting in lieu thereof the words "qualified applicants" in the third sentence of such section and by deleting the fifth sentence of such section.

SEC. 5. Sections 123, 124, and 125 of the Atomic Energy Act of 1954, as amended, are amended by substituting the term "54a." for the term "54.".

SEC. 6. Subsection 153. h of the Atomic Energy Act of 1954, as amended, is amended by striking the figure "1974" and substituting therefor the figure "1979".

SEC. 7. Subsection 161. i of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"i. prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this Act, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 53 or produced by any person in connection with any activity authorized pursuant to this Act, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this Act, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property;".

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

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

The PRESIDING OFFICER. The Chair lays before the Senate the pending business which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis.

The Senate proceeded to consider the bill.

Mr. BAYH. Mr. President, I speak in support of S. 3355, a bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to extend authorization for appropriations for the Drug Enforcement Administration for 5 years through fiscal year 1970. This bill will provide authorization for appropriations in the following amounts: $125 million for fiscal year 1975; $150 million for fiscal year 1976; $175 million for fiscal year 1977; $200 million for fiscal year 1978, and $225 million for fiscal year 1979. As chairman of the Subcommittee to Investigate Juvenile Delinquency, which has jurisdiction over the 1970 Drug Act, I joined with MARLOW COOK, the subcommittee's ranking minority member in introducing this bill on April 11, 1974. To expedite consideration of this matter the measure was not referred to the subcommittee and was favorably reported from the Judiciary Committee on June 12, 1974, and initially passed the Senate by unanimous consent on June 17, 1974. This action, however, was later vitiated when it became apparent that an amendment pertaining to the authorization and execution of "no-knock" warrants would be offered.

One of the principal thrusts of this country's drug effort must be the reduction of illegal drug traffic and reduction of drug related crime. Some inroads have been made with heroin traffic and addiction. The now threatened ban on the cultivation of opium poppies in Turkey appears to have dramatically reduced the availability of heroin, particularly in the eastern seaboard of the United States. Some experts even link the reported decline in the number of heroin addicts to the opium ban. However, much remains to be done. According to June 1974, DEA reports drug deaths have increased substantially at the national level in the last two quarters of fiscal year 1974, with the major increases being made in the heroin/morphine and methadone categories. Geographically, heroin deaths have climbed in the Northeast, Central, and Western sections of the United States. Most methadone deaths reported have occurred in New York City. Mexico is becoming a significant supplier of the heroin reaching U.S. markets for illicit distribution. DEA statistics show that in the year ending June 30, 1972, 8 percent of the heroin seized in the United States was Mexican, but by June 30, 1973, the amount of seized heroin from Mexico had more than quadrupled and accounted for 37.2 percent of all heroin seized in the United States. In any case even if the effort to curb heroin traffic was 100 percent successful we would still be confronted with an epidemic of traffic and abuse.

The source of supply for growing legions of abusers is a domestic one.

Not heroin grown in Asia's Golden Triangle, or in the notorious poppy field of Turkey or Mexico, but drugs produced here in our own country and readily available to millions.

As chairman of the Senate Subcommittee To Investigate Juvenile Delinquency, I have spent as much time in the past 3 years on efforts to deal more effectively with the problem of drug abuse as I have on any other single issue.

Our subcommittee has conducted hearings and investigations in every part of the country.

We have learned how legally produced drugs find their way to illicit markets in large cities and small towns.

We have explored the emerging patterns of abuse and learned that drug abuse can mean a suburban matron popping pills just as it can mean a youth shooting up in an urban jungle.

We understand that a middle-class child who takes a couple of amphetamines from the medicine cabinet can end up in as much trouble as a ghetto child who gets an early introduction to snorting cocaine.

We know that youthful abusers of prescription depressants and stimulants outnumber heroin abusers 17 to 1 and that heroin ranks behind these drugs in terms of death, disability, psychosis, and even addiction.

Thus, if you throw a dart at the map of America it is far more likely to identify a community with a multiple or polydrug problem than one with an exclusive heroin problem.

The President's recent drug abuse message to the Congress, as in years past, reflects little concern for the abusers of legitimately produced drugs. Meanwhile administration spokespeople canvas the country announcing that they have turned the corner on drug abuse.

This administration has been lagging behind the Congress, the public, and even some of the drug companies in its willingness to deal with these problems.

While the public's attention and resources were being directed toward illicit drugs such as heroin and cocaine, our subcommittee was initiating an effort to expand the Federal response to more adequately deal with the diversion and commonly abused drugs.

Following extensive public hearings, which began in 1971, and the introduction of legislation supported by a substantial number of my colleagues in the Senate, we were able to persuade the administration to take some constructive action.

We were able to obtain a drastic, but necessary, reduction in amphetamine production. This year's quota, based on legitimate scientific and medical needs, represents a 92-percent reduction over 1971 levels.

We moved in parallel fashion to control the production and distribution of commonly abused sedatives. Our exhaustive staff study and hearings provided conclusive evidence of the need for more adequate controls as well as treatment and rehabilitation for persons dependent on these drugs.

Despite the reluctance of two profitable and recalcitrant ethaqualone manufacturers—who we had to issue subpenas for in order to get their representatives before the subcommittee—we have secured more appropriate controls over the production, distribution, and prescription of "sopors" and "quaaludes."

On the barbiturates, however, again the administration delayed action. But finally, with sufficient prodding and I might say, when it became evident our legislation would pass, they acted to control some barbiturates. Unfortunately, in spite of findings by HEW that failure to more adequately control other barbiturates constituted a substantial risk to public health, the administration controlled only three. I took strong exception to this shortsighted and piecemeal approach.

It is imperative that the controls on the production and distribution of all commonly abused barbiturates be tightened. If the administration continues to drag its feet in this area, I shall push forward with the necessary—and tough—legislation to see that barbiturates are adequately controlled. We cannot tolerate any longer inaction or half-action in dealing with the abuse of legitimately manufactured drugs.

I was particularly pleased that at my request the Judiciary Committee adopted language in the report on S. 3355 which reflected concern about what is commonly called the nonopiate or "polydrug" abuse epidemic. On page 3 of that report (Senate Report No. 93–925) in the initial paragraph under DEA Objectives the pertinent language is found:

> The Committee's desire is that the Drug Enforcement Administration aim its manpower at responding to the polydrug epidemic by further penetration of illicit traffic in narcotics *and non*narcotic drugs and by increasing regulatory activity at all levels. These efforts should complement other high priority Federal programs of drug abuse prevention, treatment and rehabilitation.

Whether the concern is heroin or nonopiate drugs such as amphetamines and barbiturates, the bill under consideration today, S. 3355, will assist narcotic law enforcement officers in an all-out effort to curb traffic and abuse and prevent legitimately produced drugs from being used for illegal nonmedical purposes. As chairman of the subcommittee, I will persist in my efforts to assure that these goals are being met.

Mr. COOK. Mr. President, over the last several years the Federal Government has mobilized an all-out effort to deal with rapid increases in drug abuse and illegal drug traffic. Since 1969, Federal support for research in this effort has increased fourfold, support for treatment and rehabilitation has increased sixfold, and spending in the areas of education and training has increased nearly tenfold.

The principal thrust of this country's drug effort, however, has been the elimination of illegal drug traffic and the reduction of drug related crime. The Drug Enforcement Administration and, previously, the Bureau of Narcotic and Dangerous Drugs, have led the Government's fight in this regard. In the last few years steady and impressive progress has been made. Confiscations of illegal drugs, both domestically and abroad, have increased dramatically since 1970. Federal arrests for heroin trafficking and use were up to 29 percent in 1973 over the previous year, and convictions for all drug-related arrests increased 54 percent over the same period.

I think it is obvious that this Nation is just beginning to come to grips with its drug abuse problem. It is essential that a vigorous and determined effort be sustained in this area.

For this reason, Senator BAYH and I introduced legislation on April 11 of this year to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Department of Justice on an annual, continuing basis for the operation of the Drug Enforcement Administration. An agreement was reached in the Judiciary Committee, however, that this effort could best be sustained with the continuing oversight of Congress. Therefore, the bill was amended in committee to provide for a 5-year appropriation authorization in order to allow periodic reconsideration. S. 3355 as now amended authorizes $125 million for fiscal year 1975, $150 million for fiscal 1976, $175 million for fiscal 1977, $200 million for fiscal 1978, and $225 million for the 1979 fiscal year.

In addition, there is one other matter which has come to my attention and it should be promptly resolved to insure protection of the Federal officers who are attempting to protect us from the illicit traffic in drugs. At the present time, section 1114 of title 18 of the United States Code makes it a Federal offense for anyone to assault a Federal law enforcement officer. The statute lists the various agencies to which it applies including the officers of the former Bureau of Narcotics and Dangerous Drugs, which has now been merged into the new Drug Enforcement Administration. Because the statute fails to specifically list the DEA, recent circuit court decisions have held that it does not apply to the new agency's personnel. Thus, for all practical purposes at this time drug enforcement officers of the Department of Justice are without any effective redress in the Federal courts for assaults or injuries which criminals may inflict upon them during their apprehension and arrest. This is an unthinkable situation and I would like to offer, for myself and Senator BAYH, an amendment to S. 3355 which will simply strike the reference to the Bureau of Narcotics and Dangerous Drugs which now appears in section 1114 of title 18 and substitute for it "The Drug Enforcement Administration."

AMENDMENT NO. 1487

Mr. ERVIN. Mr. President, on behalf of my distinguished colleague, the Senator from Wisconsin (Mr. NELSON), and other cosponsors, I call up amendment No. 1487 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 new sections:

SEC. 2. Subsection (b) of section 509 of the Controlled Substances Act (21 U.S.C. 879) is hereby repealed.

SEC. 3. (a) Section 23–522(c)(2) of the District of Columbia Code is hereby repealed.

(b) Section 23–521(f)(6) of the District of Columbia Code is hereby repealed.

(c) Section 23–524(a) is amended to read as follows:

"(a) An officer executing a warrant directing a search of a dwelling house or other building or a vehicle shall execute such warrant in accordance with section 3109, title 18, United States Code.".

(d) The last sentence of section 23–561(b)(1) of the District of Columbia Code is hereby repealed.

(e) Section 23–591 of the District of Columbia Code is hereby repealed.

Mr. ERVIN. Mr. President, at the suggestion of the Parliamentarian, I modify the amendment in the following respect:

On line 5 after the preamble, after the word "viz", strike out "at the end of the bill" and insert in lieu thereof the words "on page 2 after line 7".

The modified amendment is as follows:

On page 2, after line 7 add the following new sections:

SEC. 2. Subsection (b) of section 509 of the Controlled Substances Act (21 U.S.C. 879) is hereby repealed.

SEC. 3. (a) Section 23–522(c)(2) of the District of Columbia Code is hereby repealed.

(b) Section 23–521(f)(6) of the District of Columbia Code is hereby repealed.

(c) Section 23–524(a) is amended to read as follows:

Mr. ERVIN. Mr. President, I rise today to speak in favor of amendment No. 1487 to S. 3355. This amendment would repeal the two so-called "no-knock" statutes passed by Congress in 1970.

One of the proudest boasts of Anglo-American law and of our constitutional law is that our system of government assures each U.S. citizen that "one's home is his castle." It has been the fundamental law of the land since George Washington first took his oath of office that law enforcement officers could not enter the home of a citizen without knocking and stating their authority and purpose. This basic courtesy, this minimal safeguard to personal privacy and dignity was not invented by the Founding Fathers. It was part of the common law which our forebears brought with them from England.

In 1763, 13 years before our Revolution, William Pitt stood before Parliament and opposed a proposal that would have allowed "no-knock" entry by British tax officials. At the close of his speech William Pitt summarized with his customary eloquence the common law prohibition on "no-knock" entry:

The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

Over 200 years later, in 1970 Congress abrogated this traditional precept and passed two statutes which gave the District of Columbia police and Federal narcotics police, extraordinary powers to break and enter private homes without notice. In these two "no-knock" statutes (18 U.S.C. 839 and 23 D.C. Code 591), Congress gave these law enforcement officers powers which it has not even given agents of the Federal Bureau of Investigation.

I ask unanimous consent that the two "no-knock" provisions be printed at this point in the RECORD.

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

STATUTES

Comprehensive Drug Abuse Prevention and Control Act, 84 Stat. 1236, 1274 (1970), § 509(b):

Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States magistrate issuing the warrant (1) is satisfied that there is probable cause to believe that (A) the propetry sought may and, if such notice is given will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person, and (2) has included in the warrant a direction that the officer executing such warrant shall, as soon as practicable after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

District of Columbia Court Reform and Criminal Procedure Act, 84 Stat. 473, 614–15, 627–28, 630–31 (1970):

D.C. Code § 23–521:

(f) A search warrant shall contain—

(6) where the judicial officer has found cause therefor, including one of the grounds set forth in subparagraph (A), (B), or (D) of section 23–591(c)(2), an authorization that the executing officer may break and enter the dwelling house or other building or vehicles to be searched without giving notice of his identity and purpose; . . .

D.C. Code § 23–522:

(c) The application [for a search warrant] may also contain—

(2) a request that the search warrant authorize the executing officer to break and enter dwelling houses or other buildings or vehicles to be searched without giving notice of his identity and purpose, upon probable cause to believe that one of the conditions set forth in subparagraph (A), (B), or (D) of section 23–591(c)(2) is likely to exist at the time and place at which such warrant is to be executed.

D.C. Code § 23–561:

(b)(1) . . . If the complaint establishes probable cause to believe that one of the conditions set out in subparagraphs (A) through (D) of section 23-591(c)(2) is likely to exist at the time and place at which such [arrest] warrant is to be executed, the warrant may contain an authorization that it be executed as provided in section 23-591.

D.C. Code § 23-591:

(a) Any officer authorized by law to make arrests, or to execute search warrants, or any person aiding such an officer, may break and enter any premises, any outer or inner door or window of a dwelling house or other building, or any part thereof, any vehicle or anything within such dwelling house, building, or vehicle, or otherwise enter to execute search or arrest warrants, to make an arrest where authorized by law without a warrant, or where necessary to liberate himself or a person aiding him in the execution of such warrant or in making such arrest.

(b) Breaking and entry shall not be made until after such officer or person makes an announcement of his identity and purpose and the officer reasonably believes that admittance to the dwelling house or other building or vehicle is being denied or unreasonably delayed.

(c) An announcement of identity and purpose shall not be required prior to such breaking and entry—

(1) if the warrant expressly authorizes breaking and entry without such a prior announcement, or

(2) if the circumstances known to such officer or person at the time of breaking and entry, but, in the case of the execution of a warrant, unknown to the applicant when applying for such warrant, give him probable cause to believe that—

(A) such notice is likely to result in the evidence subject to seizure being easily and quickly destroyed or disposed of,

(B) such notice is likely to endanger the life or safety of the officer or another person,

(C) such notice is likely to enable the party to be arrested to escape, or

(D) such notice would be a useless gesture.

(d) Whoever, after notice is given under subsection (b) or after entry where such notice is unnecessary under subsection (c), destroys, conceals, disposes of, or attempts to destroy, conceal, or dispose of, or otherwise prevents or attempts to prevent the seizure of, evidence subject to seizure shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

(e) As used in this section and in subchapters II and IV, the terms "break and enter" and "breaking and entering" include any use of physical force or violence or other unauthorized entry but do not include entry obtained by track or stratagem.

Mr. ERVIN. I do not wish to read the statutes at this time, but I do wish to invite the attention of the Senate to the most astounding provision to be found in the United Sates Code. It is the provision in the District of Columbia Act, the no-knock clause, which says that officers of the law do not have to obey the Constitution of the United States if obedience to the Constitution of the United States would be a useless gesture. That is part of one of the statutes I seek to repeal.

In brief summary, these two provisions permit judges to insert a special clause into search warrants in narcotics cases which would allow the police to execute the warrants without first knocking or announcing authority and purpose. It is sufficient for the officer to allege in his affidavit to the judge that narcotics are to be seized and that they will be destroyed if he is not permitted to enter the dwelling without first giving notice. In effect, the court is asked to sanction the methods of a common burglar.

When I opposed these measures in 1970, I believed that Congress was unjustified in its action. In opposing the legislation I contended that "no-knock" authority would not be used very often by police, that when it was used, the likelihood of danger either to police or the occupants of the home searched was great, and, most important, that the provisions themselves were unconstitutional.

"NO-KNOCK" IS DANGEROUS AND RARELY USED

The danger inherent in granting Federal narcotics officers and District of Columbia police this extraordinary power was highlighted last year in the infamous "no-knock" narcotics raids into two homes in Collinsville, Ill. In separate incidents involving the same Justice Department agents, "no-knock" raids were conducted into two different homes in Collinsville. The agents entered the two houses without warrants, kicked in the doors without warning, shouted obscenities, and threatened the inhabitants with drawn weapons. The terrified inhabitants were only temporarily relieved when the agents left after discovering that they had entered the wrong houses. Unfortunately, this is not the only example of abuses of "no-knock" authority. In a statement I delivered on May 10 of last year, I summarized a number of other incidents which have been brought to my attention, and in an article appearing in the New York Times in June of last year, a number of other incidents are chronicled. Last Wednesday I reinserted my May 10 speech and the Times article in the RECORD. See pages S10886 and S10892.

Responsible law enforcement officials have been concerned about the use of "no-knock" authority. They recognize the danger to police inherent in entering a home like common burglars. For example, District of Columbia Police Chief Jerry Wilson stated in an interview in the Washington Post on June 8 that he would not oppose repeal of the District of Columbia provision. According to the article:

"I won't object," Wilson said yesterday. "It won't affect us one way or another." He said that D.C. police have not used no-knock warrants since October, 1971.

The article continues:

Geoffry Alprin, chief lawyer for the D.C. police department has said the use of no-knock can increase the possibility of injuries both to police and occupants of homes. ". . . There might be a shoot-out; that's not what we want." he said.

When these bills were before the Senate—the no-knock provision and the narcotics bill—I predicted that it would result in the deaths of many law enforcement officers and the deaths of many occupants of homes in this country. Unfortunately, that prediction has been fulfilled.

When an officer of the law is authorized to invade a person's home without first knocking and acquainting the occupants of the building as to his purpose and authority and as to his identity as an officer of the law, there is removed from the officer of the law the restriction imposed upon him for generations; and the only distinction between the act of an officer of the law and a burglar is abolished. So that the occupants of the home do not know whether the person who is surreptitiously attempting to enter is an officer of the law or a burglar. In the absence of such knowledge, they have a right, under the common law, to use the utmost force to prevent an unwarranted entry.

At the Federal level, I have had difficulty ascertaining the usefulness of the "no-knock" authority. I attempted to get information from the Justice Department on how often "no-knock" warrants have been used since 1970, but I have only received a rough estimate. In response to a letter to me on May 24, 1973, Myles Ambrose, Director of the Office of Drug Abuse Law Enforcement—ODALE—stated that about 100 "no-knock" warrants had been issued and executed in the previous year. However, when ODALE was replaced by the Drug Enforcement Administration — DEA — last year, a new set of guidelines were issued in response to the Collinsville raids. According to an October 18, 1973, letter to me from John Bartels, then Acting Director of DEA, only one warrant had been issued and executed in the prior 3 months. According to more recent information made available to Senator NELSON, that one warrant may have been the only one issued in the last year. Judging from the extent of its use, a repeal of this most dangerous provision is obviously not going to bring our Federal narcotics control effort to a standstill.

"NO-KNOCK" IS UNCONSTITUTIONAL

The basic rule that a law enforcement officer must announce his authority and purpose prior to forced entry into a private home is grounded in at least 300 years of Anglo-American jurisprudence. It can be traced back to 1603, over 160 years before William Pitt's famous statement on the floor of Parliament. In the earliest recorded case, the court said:

The Sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming, and to make request to open the doors.

That basic common law rule was codified by Congress in section 3109 of title 18, United States Code. It reads as follows:

The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant.

Because the announcement rule is embodied in a Federal statute, the courts have rarely had the occasion to consider its constitutional implications, but there is no doubt that the 1962 case of *Ker* v. *California*, 374 U.S. 23, can only be read as establishing the rule as a constitutional requirement of the fourth amend-

ment. Mr. Justice Brennan's views for four Justices clearly states that this is his purpose. Mr. Justice Clark's opinion for four Justices make no sense unless it is viewed as proceeding from constitutional premises, because the Supreme Court has no authority to review State criminal proceedings except upon constitutional grounds.

Thus, we are considering a constitutional rule and we cannot expand upon the common law exceptions which the rule embodies. These common law exceptions have been summarized by Justice Brennan as:

(1) Where the persons within already know of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted.

It is to be noted that every one of the exceptions to the rule that an officer executing a search warrant must announce his presence, his purpose, and his authority, rests upon the facts existing at the time the officer undertakes to execute the search warrant, and not upon some facts or surmises or suspicions or prophesies which the officer may state to the judge or the magistrate at the time he applies for the search warrant.

It has been argued that the "no-knock" provisions do little more than codify these common law exceptions to the announcement rule. However, the common law never excused a police officer from compliance with the rule on the basis of his knowledge prior to the execution of the warrant, as these laws do. It never excused compliance on the basis of the destructibility of the evidence being sought, as these laws do. On the contrary, the common law excused compliance only when certain circumstances became evident to the police officer at the time he executed the warrant.

Under the "no-knock" laws, the officer is allowed to guess whether he will find certain circumstances to exist when he goes to execute the warrant. How can this be a codification of the common law?

It is simply an absurdity to maintain that an officer who goes before a judge or a U.S. commissioner for a search warrant at a place which may be miles and miles from the house to be searched can have any knowledge that the people are going to destroy the narcotics, when they do not even know the officer is coming and have no knowledge of the issuance of the warrant. Are we not really asking the police officer who files an affidavit to support a "no-knock" warrant to swear to a state of facts which may never exist? Does this satisfy the constitutional requirement that warrants be based on "probable cause"?

I wish to direct the attention of the Senate at this point to the fourth amendment, which incorporates in the Bill of Rights the doctrine that every man's home is his castle. That amendment provides:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

I would emphasize, above all things, that the amendment says that "no warrants shall issue, but upon probable cause."

Probable cause necessarily relates to facts existing at the time the search warrant is applied for. It cannot be supplied by suspected future actions. It cannot be supplied by false prophecies as to the future. But these "no-knock" provisions, which my amendment seeks to strike, are based entirely upon facts which the officer prophesies or predicts are going to exist in the future, at the time he undertakes to execute the search warrant, at a place which may be many miles away, hours and hours later, and not upon facts known to the applying officer at the time he seeks to obtain the search warrant.

I do not know of any officer of the law who is gifted with such powers of prophecy, but even if there were such a being, his prophesying would not satisfy the requirement of the fourth amendment that there must be probable cause for the issuance of the warrant.

Ironically, the Supreme Court has never considered the constitutionality of either of these "no-knock" statutes. However, I am confident that it would strike down any warrant based upon the prophesy of a law enforcement officer. It has already held in the case of *Nathanson* v. *United States* 290 U.S. 41 (1933) that mere suspicion is not sufficient to constitute probable cause for the issuance of a search-or-arrest warrant. I submit that a prophecy has as little legal significance as a suspicion. In the Nathanson case, the court voided a warrant which alleged that the officer had cause to "suspect and believe." But that is as far as an officer can possibly go when he applies for one of these no-knock search warrants which are to be issued on the basis of what he predicts will happen in the future. I do not see how the Supreme Court could possibly sustain such a search warrant.

In 1970, when the Senate was considering the Federal "no-knock" provision, much was made of the fact that the provision had been redrafted so that "no-knock" would only be permitted where there is probable cause to believe that evidence "will be" instead of "may be" easily and quickly destroyed or disposed of. I submit that whether one uses "may" or "will" in terms of the evidence being destroyed makes little difference. "Will" no doubt requires that an officer present just a little more to the magistrate to make a showing than "may" does, but the important point is that what has to be established to the magistrate's satisfaction in each case is not that the evidence "may" or that the evidence "will" be destroyed but "probable cause" that the evidence "may" or "will" be destroyed. In other words, the supposed stricter requirement of "will" is illusory, because in any event all the officer has to show is that the evidence probably "may" or "will" be destroyed. At that point in time all he can show to the magistrate is that the evidence is of such nature that it could easily be destroyed. No matter what embellishments he comes up with, no matter what detail he piles on, at the time of the issuance of the warrant, all he can know is the nature of the evidence sought. The supposed protection accorded the privacy of our citizens by having a magistrate pass on the "no-knock" request evaporates upon examination.

The policy underlying the rule of announcement is made up of several strands. One purpose is to protect the officers, both from innocent householders and from criminals. Under the decisions of every State of the Union and in England, a householder has the right to kill an officer of the law who attempts to enter without announcing and his killing under the law would be justifiable homicide. The announcement rule protects the police from criminals because the average narcotics violator, though he might be inclined to shoot unidentified intruders, is highly unlikely to shoot it out with police officers.

As a matter of fact, I know of no provision of law which puts officers of the law in more jeopardy of life and limb than a provision of the law which undertakes to authorize "no-knock" searches of the homes of our citizens. When someone attempts to break into the dwelling house of the average citizen in the night time, the average citizen is not going to wait to ascertain whether it is an officer of the law or whether it is a burglar. He is going to resist to the utmost, even to the taking of life, the unwarranted intrusion into his house by some man who attempts to enter without notice, without identifying himself, without revealing his status as an officer of the law, and who attempts to enter by force, like common burglars.

It is ridiculous to say that breaking in without notice serves as protection for the police officer. The contrary is true. He is more likely to lose his life if he attempts to break in without notice.

Beyond the practical considerations, the announcement rule was established to protect the privacy of the home. Fresh in the minds of the Founding Fathers were the abuses of British power by the infamous writs of assistance and the dreaded general search warrants. There was no reason in 1970 to turn back the clock at this point to allow unannounced forcible entries by the police authorized by a blanket rule based on the type of crime or evidence involved.

The Bill of Rights applies to everyone, even drug peddlers, If our standard is going to be that if a constitutional guarantee serves to protect criminals, we are going to be free to disregard it, then we are in trouble. On that theory, society would have to disregard every basic right given to any person in our society. As Mr. Justice Sutherland said:

If the provisions of the Constitution be not upheld when they pinch as well as when they comfort, they may as well be abandoned.

In many cases, Congress does not have the benefit of sound judicial advice regarding its legislating in a certain field. But in the area of prior notice before entering, Mr. Justice Brennan, writing for the court in the case of *Miller* v. *United States* 357 U.S. 20 (1958) lays down very sound and plain policy considerations to guide us. He said:

The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application.

LEGAL EFFECTS OF THE PROPOSED AMENDMENT

Mr. President, the legal effects of the proposed amendment, sponsored by myself and Senator Nelson, are relatively simple.

In the case of Federal narcotics agents, their authority to obtain a judicial warrant, under the provisions of 21 U.S.C. 879 for the purpose of conducting unannounced searches, is repealed. This means that future searches conducted by such agents will be subject to the requirements of 18 U.S.C. 3109 which applies to all Federal law enforcement officers, namely, the officer must give notice of his purpose and authority prior to entering to execute a search warrant. Any judicially recognized exceptions or applications of the statutory requirements would, a fortiori, obtain as well.

In the District of Columbia, the authority of the District of Columbia police, under section 23–591 of the District of Columbia Code, to enter a dwelling house, or other building, or vehicle under certain circumstances, without first giving notice of their purpose and authority, is repealed. Added is a provision dealing with the execution of search warrants. It provides that District of Columbia police are subject to the requirement of 18 U.S.C. 3109, which applies to all Federal law enforcement officers. This means, in simplest terms, that the legal requirements with respect to unannounced entries by District of Columbia police officers are returned to the same condition which existed prior to passage of the 1970 act. I will explain this point in greater detail.

Prior to the 1970 act, there was no provision in the District of Columbia Code which governed the unannounced entrance of District or Columbia police officers into private dwellings or vehicles. There were, however, several cases—one of which was a decision of the U.S. Supreme Court—which did impose requirements upon District police officers in such circumstances.

The Supreme Court decision in the case of *Miller* v. *United States* (357 U.S. 301) was rendered in 1958. Prior to this, there had been several cases which had established the requirement that District of Columbia police must announce their purpose and authority before entering to execute a search or arrest warrant. In this, the courts were only following familiar common law rules.

The leading early case concerning the announcement requirement was *Palmer* v. *King* (41 App. D.C.) (1914), which dealt with the execution of a civil writ of replevin. The court ruled that a police officer may forcibly enter a dwelling house only after requesting to enter and having that request denied. The same requirement was later applied to entries in criminal cases by the decision in *Woods* v. *United States* 240 F. 2d 37 (D.C. Circ. 1956).

A second criminal case, *Accarino* v. *United States* (179 F. 2d 456), decided by the District of Columbia Circuit Court of Appeals in 1949, held an arrest to be illegal because the officer had not announced the purpose of his entry. Judge Barrett Prettyman, after reviewing the common law on the subject, concluded that "upon one topic there appears to be no dispute in the authorities. Before an officer can break open a door to a home, he must make known the cause of his demand for entry."

The Supreme Court, in its Miller decision, cited approvingly this standard developed by Judge Prettyman in the Accarino case, but decided that the conduct of District of Columbia police officers should be governed according to the standards set out in 18 U.S.C. 3109, which they found to be "substantially identical" to those established in the Accarino case. That statute provides that a Federal officer may "break and enter" to execute a search warrant only if, "after notice of his authority and purpose," he is denied admittance. The Court described this statute as the codification of "a tradition embedded in Anglo-American law."

Thus, the Supreme Court in the Miller case imposed upon District of Columbia police officers the requirements of 18 U.S.C. 3109, which is precisely the effect of the amendment to S. 3355, which I now propose. If this amendment becomes law, the applications and exceptions to 18 U.S.C. 3109 which have been judicially developed in Miller and its progeny would also obtain. This means that in certain limited circumstances, the requirement that an announcement of authority and purpose is excused, and does not invalidate the ensuing arrest or search.

The Court in Miller described one possible exception as being where the officer is "virtually certain" that the person inside the door already knows the officer's purpose, thereby making announcement "a useless gesture." It also alluded to the case where the officer's announcement would "increase the peril" for persons within, as a possible exception to the rule.

The Court in subsequent cases indicated the possibility of still other exceptions. In *Ker* v. *California*, 374 U.S. 23, a 5 to 4 majority found that the fact officers have reason to believe the person to be arrested is in the possession of evidence which is easily destroyed, and that person had indicated that he knew police were following him, officers were justified in not complying with a State law requiring notice of purpose and authority. I have already cited three narrower exceptions identified in Justice Brennan's dissent. While the Ker case did not involve an interpretation of 18 U.S.C. 3109, the Court did attempt to identify certain circumstances which were recognized at common law as exceptions to the general rule of giving notice of purpose and authority. And since 18 U.S.C. 3109 is itself a codification of the common law, these common law exceptions do have relevance insofar as its application is concerned. In fact, in the case of *Sabbath* v. *United States*, 391 U.S. 585, the Supreme Court expressly noted that the exceptions cited by Justice Brennan in the Ker case, might apply to 18 U.S.C. 3109 as well. Unfortunately, the high court has, as yet, come no closer to identifying conclusively those situations which justify noncompliance with the statutory requirements.

The District of Columbia courts have, meanwhile and on occasion, stepped into the breach and engrafted new qualifications and applications on the statutory language of 18 U.S.C. 3109. In *Hair* v. *United States* 289 F. 2d 894 (D.C. Cir. 1961), the Circuit Court of Appeals recognized that in certain "necessitous" circumstances, the belief that the person to be arrested was escaping might obviate the requirements of the statutory rule, and in *Bosley* v. *United States* 426 F. 2d 1257 (D.C. Cir. 1970), it excepted the situation where giving notice would have been a "useless gesture," from the requirements of the statute.

District of Columbia courts have also applied the requirements of 18 U.S.C. 3109 to the execution of arrest warrants as well as search warrants, and have interpreted the statute as requiring notice of purpose and authority even when the "breaking and entering" is not achieved by force. Both applications were approved by the Supreme Court in the Sabbath case, which I have already cited.

I also mention in passing, Mr. President, two other effects which the amendment will have, although neither affects substantially the law which already exists in the District of Columbia.

First, the amendment repeals subsection (d) of the District of Columbia Code 23–591 which made it a specific new crime to destroy or conceal evidence subject to seizure under a search warrant, after the officer has given notice of his presence or, if notice is excused by the statute, after he has entered the home or dwelling place. The same sort of conduct on the part of an inhabitant of a place being searched may be punishable in the District of Columbia under any one of three other criminal statutes: either under the general prohibition against obstruction of justice (D.C. Code 22–703); the general prohibition in the United States Code prohibiting the destruction of evidence subject to seizure (18 U.S.C. 2232); or the District of Columbia Code provision punishing the obstruction of an officer who is authorized to execute a search warrant for narcotic drugs (D.C. Code 33–414 (n)). The effect, then, of the proposed repealer insofar as authorizing punishing of those who destroy evidence sought under a search warrant would be negligible.

Second, the amendment repeals subsection (e) of the District of Columbia Code 23–591, which expressly exempts from the requirement of giving notice and authority, police officers who obtain entry without force by means of a "trick or strategem." Although I have had personal reservations about this subsection, and even about the common law cases which recognized such an exception, I am persuaded that this statutory provision adds little to what the law in the District of Columbia already is. The District of Columbia Circuit Court of Appeals has, in fact, expressly ruled in the case of *Jones* v. *United States* 304 F. 2d 381 (1962) that entry of the police by trick was not illegal, despite the fact that they had failed to announce their purpose and authority before actually entering. I would submit, therefore, that the repeal of subsection (e) of the District of Columbia Code 23–591 really does not change the law in the District of Columbia. It merely diminishes the legal significance of the rule from statutory language to a judicial holding.

In short, Mr. President, the amendment offered by myself and Senator NELSON returns the legal situation to what it was before the passage of the 1970 act. Following the guidance of the Supreme Court in the Miller case, it subjects District of Columbia police officers to the notice requirements of 18 U.S.C. 3109 which applies to all Federal law enforcement officers. It makes no attempt to delineate any exceptions or applications to this general rule. It leaves this to the courts and the body of judicial precedent that has already grown around the interpretation of 18 U.S.C. 3109.

As I have already pointed out, however, it is my contention that the present provision of the District of Columbia Code which excuses compliance with the common law requirement of notice goes far beyond what the common law has traditionally recognized as legitimate exceptions. It is for this reason that I seek its repeal.

It is my opinion any exceptions to the common law requirement must be narrowly drawn if they are to stand scrutiny under the fourth amendment. The three exceptions noted by Justice Brennan in the Ker case should, in my estimation, be taken as guiding principles. But this amendment does not impose them categorically. It leaves that to the courts to be adjudicated on a case-by-case basis.

When Congress enacted the two no-knock statutes, which the amendment offered by Senator NELSON and myself seeks to repeal, we had a period of hysteria. There was a period of fear, there was a period of doubt. People were afraid of the rising crime rates. These have done nothing to militate against the rising crime rates.

They also had doubt about America's commitment to the basic principles of freedom. I recognize the great havoc that has been done to our Nation by the sale and use of narcotic drugs. I recognize that narcotic drugs destroy the character of the addict. I recognize that they destroy the happiness of those who are near by ties of blood and marriage to the addict, but I respectfully submit that what Congress ought to do is to take the people who traffic in drugs and give them the various penalties known to the law.

We ought not to sacrifice on the alter of doubt and fear, which is what these two statutes do, what is the proud boast of our law that every man's home is his castle.

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

Mr. ERVIN. Yes, I would be delighted to yield.

Mr. JAVITS. I join with the Senator, Senator NELSON, Senator PERCY and others in this amendment. Senator ERVIN has expressed, I think, our views with the greatest eloquence.

During our debate in the Senate in 1970 on the Comprehensive Drug Abuse Prevention and Control Act, I urged the Senate to vote against the adoption of no-knock provisions both for the Federal system and for the District of Columbia.

Since that time, the American people have reaped an unfortunate harvest of abuse, hardship and sometimes tragedy in connection with the implementation of these laws.

During this period, numerous citizen complaints have been received by Members of Congress concerning the administration of the Federal no-knock law which is found in 21 U.S.C. 879.

Specifically this statute allows unannounced forcible entries by Federal officers in certain drug law enforcement situations. A special no-knock search warrant must be issued by a judge or U.S. magistrate in all such cases.

The provisions of the District of Columbia no-knock law, D.C. Code sections 23–521, 522, 561, 591, cover unannounced forcible entries in cases of search warrants, arrest warrants, and arrest without a warrant based on probable cause. Under this statute no warrant sanctioning entry is necessary if the officers on the scene have probable cause to believe that any of the grounds justifying forcible entry exist at that time.

We all by now must be familiar with the accounts of how certain law enforcement officers—despite the dedication and professionalism of the overwhelming majority of their colleagues—have broken into the wrong homes and have harassed and sometimes harmed innocent victims. On June 25, 1973 the New York Times ran an extensive article alleging that violent drug raids against the innocent were found to be widespread throughout the Nation. Although that article was made part of the record at the time that it appeared, I ask unanimous consent that it be printed again in the context of our debate today because of the grave consequences to our constitutional government which these activities represent.

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

(See exhibit 1.)

Mr. JAVITS. After 4 years of experience, the no-knock provisions which we debate today are not necessary to the rigorous enforcement of Federal drug laws or District of Columbia criminal laws. In an interview on June 7, for example, Chief of Police Jerry V. Wilson stated flatly that he would not object to repeal of the no-knock provisions and that repeal of such provisions "won't affect (the D.C. Metropolitan Police Department) one way or another." (Washington Post, June 8, 1974.) Although the Federal Government once used the no-knock authority regularly, more recent statistics indicate that the authority is invoked only rarely today.

On the other hand, the marginal utility of the no-knock provisions is far outweighed by the grave dangers which they pose to the fundamental and constitutionally guaranteed right to privacy.

It is far outweighed by the fact that government agents have abused the no-knock authority to break into the homes of and terrorize unsuspecting and even innocent individuals.

It is outweighed by the fact that the mere existence of the no-knock authority breeds an official attitude which sometimes places government agents above the law.

My opposition to these provisions therefore goes far beyond the constitutional principles which they violate, particularly the gross invasion of the right of privacy which these laws authorize. The most forceful argument for eliminating no-knock is that commonsense and actual experience indicate that its exercise may actually increase the chances of injury and death both to law enforcement officers and citizens whose homes are broken into.

I urge the Senate to adopt this amendment.

EXHIBIT 1

VIOLENT DRUG RAIDS AGAINST THE INNOCENT FOUND WIDESPREAD

(By Andrew H. Malcolm)

WASHINGTON, June 24.—Innocent Americans around the country have been subjected to dozens of mistaken, violent and often illegal police raids by local, state and Federal narcotics agents in search of illicit drugs and their dealers.

An eight-week investigation by The New York Times—consisting of interviews with victims of the raids, policemen and narcotics agents—has shown that, contrary to published reports and some Government assertions, the recent illegal drug raids on two Collinsville, Ill., families were not isolated incidents.

In fact, during the last three years, mistaken raids have been made by narcotics agents on all government levels, often acting on uncorroborated tips from informers.

Such incidents have resulted in at least four deaths, including one policeman slain when a terror-stricken innocent woman shot through her bedroom door as it burst open. In California one innocent father was shot through the head as he sat in a living room cradling his infant son.

Details of each raid vary but generally they involve heavily armed policemen, arriving at night, often unshaven and in slo-

venly "undercover" attire, bashing down the doors to a private home or apartment and holding the innocent residents at gunpoint while they ransack the house.

A raid victim in Long Island has settled a damage suit with the Federal Government for $160,000. Similar suits are pending.

Sometimes the agents have warrants and identify themselves. Sometimes they do not.

Frequently, the raiding party is rude, abusive and, as in Collinsville, shouts obscenities at its terrified victims.

In Los Angeles a veteran police officer says mistaken raids occur once or twice a month. In Miami complaints of police harassment on drug searches are so frequent that the Legal Services of Greater Miami can no longer handle the caseload.

Taken individually, the raids have been little noticed nationally, apparently because they were believed to be isolated aberrations or unfortunate but understandable errors as hard-pressed police forces sought to combat drug addiction, which President Nixon has called "Public Enemy No. 1."

In addition, the raids occurred in widely scattered areas. Often they involved lower-class families with little access to the media or to advice on possible legal recourse.

Some believe many families kept quiet for fear of reprisals by the agents or perhaps because in their hatred for drugs they condoned the tactics but not the locals.

NO-KNOCK LAWS

But taken together the mistaken raids paint a picture of strong-arm police tactics, shoddy or nonexistent pre-raid police investigation and the pressures and brutalizing impact on the police of constant contact with what they call "society's scum," the drug pusher.

The incidents also underline what some view as an inherent danger in "no-knock" narcotics raids, which were authorized for Federal agents by Congress in 1970. Some states have similar statutes.

Under these laws the police may obtain a special no-knock search warrant authorizing them to break into homes unannounced if there is probable cause to believe that the property sought can be quickly destroyed or disposed of or if giving notice of police presence could endanger an officer or other person.

To some observers such mistaken raids are just that—mistakes caused by an understandable mounting police frustration with the growing drug problem. They say that members of the more vocal middle class are now being subjected to rigorous police techniques that some allege some officers have long used in black communities.

To others, however, the mistaken raids signal the emergence of a dangerous climate of repression.

The drug raids on the homes of Herbert Giglotto and Donald Askew in Collinsville, Ill., occurred the night of April 23. Mr. Giglotto was asleep with his wife in their apartment when more than 15 poorly dressed men broke down two doors, handcuffed the Giglottos, held them at gunpoint, emptied drawers and closets, shattered pottery, threw a television set on the floor and shouted obscenities.

A half-hour later a similar event occurred across town at the Askew's modest home.

CAVEAT VENDOR

In both cases the men were agents of the Office for Drug Abuse Law Enforcement, an umbrella agency established in January, 1972, by President Nixon. Its motto is "Caveat Vendor."

In both cases the men were at the wrong address.

In both cases they had no search or arrest warrants.

In both cases they had no authority from their superiors for the raids. In both cases they did not identify themselves until well into the raid.

The agents, one of whom had been involved previously in incidents involving questionable force, have been suspended with pay but continue to perform limited duties while a grand jury investigates and the families sue.

Three days before the Collinsville raids, at 10:45 P.M. Mrs. Laura Smith heard a tapping on a window of her home on Chicago's tough South Side. Seconds later a sledgehammer came through the back door, she said. It was followed by four armed men in civilian clothes who ran through the house, she continued. They were Chicago policemen.

"They were looking for marijuana and some man named Will," recalls Mrs. Smith, who noticed that the search warrant was originally issued for 9763 South Oglesby, one block away from the Smiths' home at 9763 South Crandon. The original address was scratched off and that of the Smiths written in.

Circuit Court Judge Irving Kipnis, who signed the warrant, said such changes must be made in a judge's presence, but he handles so many warrants these days that he could not recall if that procedure had been followed.

The Chicago police offered no explanation for the raid, nor did they pay for the broken door. "Every time I hear a noise at night now," says Mrs. Smith, "I live it all over again." Her husband, James, is a Cook County deputy sheriff.

On Jan. 26 this year Mrs. Anna Majette was asleep in her apartment at 1420 Barbour Drive in Portsmouth, Va. She heard a noise as her door crashed in.

She rose from bed and, she says, Frank Bonnewell, chief of Portsmouth detectives, stepped in front of her with a gun. "We've heard a lot about this house," he said.

The officer produced a search warrant. His men searched for heroin.

Then Mrs. Majette noticed that the warrant was issued for Apartment A and hers was Apartment J.

"Sorry," said the officer. And they left.

PHILADELPHIA INCIDENT

At a hearing later officers got to talking. "I was on a raid one time," one policeman recalled, "and we got the wrong house. We broke in, went upstairs to a bedroom and found a half-deaf and blind couple that didn't even know we entered the house."

On Jan. 24 in Philadelphia three off-duty patrolmen—John Chopak, James Haney and Harry Herrr—were drinking in a bar near 40th and Market Streets when, they say, a patron said they could find narcotics in a nearby house.

According to a police investigation, the three men went to the house on Wiota Street, ransacked the house and beat three occupants. Not finding any drugs, they forced a passerby into the house and beat him too.

Then the patron took the officers to another house on Baring Street where they beat three other occupants. They found no drugs there either.

The policemen were suspended and arrested.

On Jan. 9 at 10 A.M. in Winthrop, Mass., 15 burly men armed with shotguns broke down two doors and burst into the William Pine residence.

The men did not identify themselves and wore no uniforms. They pushed the family to a couch. "Please don't kill us," screamed 13-year-old Melody Pine.

"Just don't move," came the reply.

Mr. Pine, a night worker, awakened upstairs to face several gun barrels. The men asked his name. "William Pine," he replied.

The men looked at each other and raced from the house. They were state and Federal narcotics agents, it was learned later. And they wanted the green house at 30 Underhill Avenue, not the Pines' green house at 32 Underhill.

"I didn't know police operated like that in America," said Mrs. Pine.

At 6 A.M. Sept. 20, 1972, the James R. Herman family of Rochester, N.Y., was awakening. Suddenly the door jamb splintered under the weight of four men.

They ordered Mrs. Herman from the bathtub, threatened the family's barking dogs and searched the house. "If I'd had a gun," said Mr. Herman, "I'd have fired. I thought they were burglars."

They were not. They were state troopers, part of a force executing 22 search warrants in a Monroe County drug round-up. But they were at the wrong house.

The police said they had overheard a telephone number during a wiretap and when they had called the Rochester Telephone Corporation to get an address for it, their service representative gave them 3 Audobon Street.

It was Herman's address but not their telephone. The police apparently never checked the address further.

Smashing into the wrong house, added Capt. Richard Bolan of the state police, was an "insignificant detail" in what was "one hell of a raid."

In Norfolk, Va., at 3 A.M. May 24, 1972, Mrs. Lillian Davidson, a previous burglary victim, heard someone breaking into her house at 812 Lancaster Street. Then someone began to batter down her locked bedroom door.

SHOT THROUGH DOOR

She grabbed a .32-caliber revolver and shot through the door.

The bullet pierced the chest of Patrolman Lewis W. Hurst Jr., the 22-year-old son of the head of the Norfolk Police Department's narcotics squad. He died minutes later.

The police arrested Mrs. Davidson. They were looking for 2,400 parcels of heroin that an informer, a former drug addict, had said were there. They were not.

The police said it had been an error by the young informer and released Mrs. Davidson. The agents acted on an "immediate entry" clause added to the search warrant. The clause, said Lawrence Wallace, assistant commonwealth attorney, is unwritten common law that dates back to Virginia's founding.

On April 24, 1972, local policemen and agents of the Bureau of Narcotics and Dangerous Drugs moved on the mountain retreat of 24-year-old Dirk Dickenson near Eureka, Calif., to seize a "giant lab" producing drugs.

Arriving on foot with dogs and in a borrowed helicopter, the agents, who were not in uniform and did not identify themselves, assaulted the cabin with rifles and hand guns. Apparently frightened and baffled, Mr. Dickenson ran toward the woods.

An agent, Lloyd Clifton, shot him in the back as he fled. Mr. Dickenson died. It is a violation of bureau rules to shoot at fleeing suspects. No "giant lab" was found.

The United States Attorney in San Francisco said there had been no civil rights violations and the killing had been justifiable homicide.

On Feb. 5, 1973, Mr. Clifton was indicted by a Humboldt County grand jury for second-degree murder and involuntary manslaughter. The Federal Government hired a special defense attorney for Mr. Clifton. The lawyer, James McKittrick, seeks to have the charges dismissed.

Mr. Clifton continues his duties.

SECOND CALIFORNIA DEATH

Mrs. Adeline Garcia has sued Los Angeles and Riverside County for $750,000 for the

shooting death of her husband, Francisco, by the police on a drug raid at a ranch near Indio on May 12, 1971.

The police said Mr. Garcia had ignored commands to stop his truck. They shot him and wounded his wife. A substantial cache of marijuana was discovered on the ranch, but Mr. Garcia was never implicated in the narcotics operation.

Here in Washington on May 2, 1970, seven policemen, only one in uniform, broke into Miss Lauretta Whitney's home on Newton Street, knocked her down and ransacked the apartment in search of illegal narcotics. They found none.

The address on the warrant came from a trusted informant, the city police said, but now that Miss Whitney is suing for $100,000 damages, officials say they have no idea where the informer is.

"We're also considering a class action suit," said Mrs. Florence Isbell of the local American Civil Liberties Union as she leafed through files with more than 20 similar cases.

On Oct 3, 1969, a number of state and local narcotics agents in Whittier, Calif., drank beer and highballs for two hours in a local bar as they awaited completion of search warrants for a drug raid on Apartments B and D at 8033 South Comstock.

However, they initially entered the apartment of Mrs. Florence Mehan at 8031 South Comstock. Realizing their mistake, the agents went upstairs to the correct address.

Drawn by the commotion, Mrs. Mehan's son-in-law, Heyward Henry Dyer, 22, and his 22-month-old son, Francis, went to the Mehan apartment.

Suddenly, a bullet crashed through the ceiling. It pierced Mr. Dyer's skull, killing him instanly.

The shot came from an AR–15 military rifle, which one of the agents upstairs, Sgt. Frank Sweeney, was not authorized to carry. He said it had fired accidentally.

No one in that upstairs apartment was arrested. A coroner's jury decided that Mr. Dyer died by criminal means, but the district attorney's office declined to prosecute.

Sergeant Sweeney, among others, was later suspended from duty without pay for a time.

Three weeks ago a court awarded the family $900,000 damages.

COMPLEX REASONS

The reasons behind these mistaken raids are varied and complex. But they are tied intimately to the veritable explosion of Government drug enforcement activities in recent years.

At its formation in 1968 the Bureau of Narcotics and Dangerous Drugs, the main Federal arm against drugs, had 615 agents and a $14-million budget. Now is has 1,586 domestic agents and a $74-million budget. On July 1, a new Drug Enforcement Administration will absorb most of the Federal efforts, including the bureau. These efforts cost about $245-million a year.

With its sudden growth, the bureau has had to do some fast recruiting. "A majority of our people come to us right out of college," said Richard Ulrich, administrative officer for the National Training Institute, the bureau's training arm, "and some of them have law enforcement experience."

The institute runs a 10-week school for new agents and hundreds of local policemen, with 600 hours of instruction, including 26 hours on due process and the Constitution's Fourth Amendment, which prohibits "unreasonable searches and seizures." But apparently attendance is not required; some agents involved in mistaken raids had not taken the course.

The raids are frightening for both raided and raider. The tactics are based in part on the theory that a sudden, overwhelming display of police force will quash any thought of resistance and secure evidence before it can be disposed of.

"You have to go in with the idea that this guy is going to fight," said Clyde Charles, an agent who asked that his real name not be used. "He's always being shaken down by other pushers. So you figure you'll be staring down a gun barrel."

"I've been on 200 or so raids," he continued, "and the no-knock is the scariest. You ask yourself what would you do if your door came crashing down at 3 A.M. and you had a gun. You'd let go, right? Personally, I think the danger might outweigh the value."

Officials of the bureau, which works against big-time pushers, say they have executed "two or three" no-knock raids; officials for the Office of Drug Abuse Law Enforcement, which concentrates on smaller drug dealers, say they have done "above 100."

But the agents themselves admit to some "funny business" regarding the requirement to announce themselves on other than no-knock raids. "You might whisper, 'Open up! Police!'" one said, "or you could yell it the instant before you hit the door."

Another drug official added: "It's hard for outsiders to set a normal standard of behavior. You can't ask an agent to spend three months on a case and then expect him to announce himself politely and listen to every toilet on the floor flush away the evidence. You have to be a saint to do that."

Another agent said, "If you spend weeks undercover, living in a hole and dealing with drug people, your whole life-style changes and perhaps your morals too. Sometimes there's a thin line between the hunted and the hunter."

"This is dirty scummy work," said Myles J. Ambose, head of the Office of Drug Abuse Law Enforcement. "You see these vermin selling drugs and what they do to people and our cities and you get sickened and angry and perhaps you take your hostilities and frustrations out on some guy's bookcase. It's not right. But how are you going to prevent it?"

Mr. JAVITS. I thank my colleague very much for leading and for his leadership in this matter.

Mr. ERVIN. I thank the Senator from New York for his contribution.

The Senator from New York, during the time that he and I have jointly served in the Senate together, has always stood steadfastly for the proposition that you cannot justify in the name of law enforcement the abrogation of the basic rights set forth in the Bill of Rights and the fourth amendment.

Mr. JAVITS. That is what we have learned over thousands of years of travail, that we had better not yield our basic rights or we will yield our most fundamental liberties.

Mr. NELSON. Mr. President, will the Senator from North Carolina yield? Just to be sure the RECORD is absolutely clear on this, is it not correct that this statute adopted in 1970, authorizing no-knock entries, only applies to the District of Columbia and to Federal narcotic officers for enforcement of the law?

Mr. ERVIN. That is correct.

Mr. NELSON. It does not authorize any other jurisdiction at the State level to utilize a no-knock entry?

Mr. ERVIN. No, it does not.

Mr. NELSON. The Senator commented a few moments ago about his concern, and everyone's concern, about drug abuse and, remembering the debates that were held in 1970——

Mr. ERVIN. In 1970, 1971, and then 1972.

Mr. NELSON. The real argument, which most of us believed and, I think, all constitutional authorities believed, is that the no-knock provisions are in violation of the fourth amendment—but, in any event, the argument made was that this was an effective way to prevent drug abuse; is that not correct?

Mr. ERVIN. That is correct. And the future showed that argument was totally without merit.

Mr. NELSON. That was the point I was going to make.

As was mentioned in the debate a moment ago, it is correct, is it not, that the Police Chief of the District of Columbia has now said it would not make any difference to the District of Columbia police if the no-knock provisions are repealed and, in fact, they have not used the authority in the past 2½ years?

Mr. ERVIN. That is correct; not since 1971.

Mr. NELSON. So the only other jurisdiction in the country that is given authority by the provisions in question is not using that authority.

Mr. ERVIN. Only one search warrant—my latest information is only one search warrant—was issued by Federal authorities in the past year.

Mr. NELSON. I believe, for the record, that the Federal narcotic agents secured permission for three no-knock entries but utilized one in the past year.

Mr. ERVIN. That is my information.

Mr. NELSON. Neither the FBI nor any other agency of Government, in attempting to enforce any laws, has any authority to use a no-knock entry?

Mr. ERVIN. That is correct.

Mr. NELSON. Is my memory correct that at the time of the debates, the late Director of the FBI, Mr. Hoover, commented that this kind of entry was not used or needed?

Mr. ERVIN. Well, I understand that we had evidence before the Watergate committee, when Charles Tom Huston started to set up a new system, that Mr. Hoover was absolutely opposed to such entries as this, and he said that was burglary.

Mr. NELSON. Is this not also correct, that for the first 194 years of the history of this Republic, all the way from its founding to 1970, there was no such authority in the law for this kind of an entry?

Mr. ERVIN. That is correct. The Declaration of Independence set forth as one of the causes of the American Revolution also the use of unlawful search warrants in Boston. It was for that reason the fourth amendment was incorporated in the Constitution, in order to prevent such things from happening.

Mr. NELSON. I thank the Senator.

Mr. President, the distinguished Senator from North Carolina has covered this subject matter in comprehensive detail from all legal aspects. I commend him for his discussion and express complete agreement with it.

Mr. President, approximately 185 years ago, Thomas Jefferson warned that "the natural progress of things is for liberty to yield and government to gain ground."

Unfortunately, that warning has proved prophetic all too often. On too many occasions government needs have

been given priority over individual liberties.

Nowhere is this more true than in the enactment of the no-knock provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the District of Columbia crime bill. These no-knock provisions authorize Federal narcotics agents and District of Columbia law enforcement officials to secure court warrants to forcibly enter an individual's home or office without first identifying themselves or the purposes for which they seek entry.

Initial study made clear that these no-knock provisions would undermine the individual's right to privacy—a right which is the cornerstone of our system of democratic self-government. Accordingly, I opposed those no-knock provisions when the Senate debated and voted upon them in 1970.

The same concerns now lead me to join with Senator ERVIN to propose an amendment to repeal the no-knock provisions. For reconsideration of the law and subsequent experience have only reinforced the initial conclusion: the no-knock provisions are unnecessary, dangerous, and unconstitutional.

To begin with, experience has demonstrated that the no-knock provisions are not at all necessary to the rigorous enforcement of Federal drug laws or District of Columbia criminal laws. In an interview on June 7, for example, Chief of Police Jerry V. Wilson stated flatly that he would not object to repeal of the no-knock provisions and that repeal of such provisions "won't affect the District of Columbia Metropolitan Police Department one way or another." In fact, in the interview Chief Wilson reported that the District of Columbia police have not used the no-knock authority at all since 1971. Similarly, although the Federal Government once used the no-knock authority regularly, more recent statistics indicate that the authority is invoked rarely today. Since June 1973, for instance, the Federal Government has invoked the authority only three times.

The need to repeal the no-knock provisions, however, is not dependent on their limited use. For whatever their marginal utility, it is far outweighed by the grave dangers which they pose to the fundamental and constitutionally guaranteed right to privacy. Numerous reports have documented how Government agents have abused no-knock authority to break into homes and terrorize unsuspecting and even innocent individuals.

An exhaustive survey conducted by the New York Times in 1973 found, for example, that—

> Innocent Americans around the country have been subjected to dozens of mistaken, violent and often illegal police raids by local, State and Federal narcotics agents in search of illicit drugs and their dealers.

The Times article observed that the incidents reveal "an inherent danger in no-knock narcotics raids which were authorized for Federal agents by Congress in 1970." Reference to some of the incidents recounted by the Times should make that inherent danger clear to everyone:

A raid by Norfolk, Va., police on a home at 3 a.m. on May 24, 1972, was conducted pursuant to an immediate entry clause attached to a search warrant based on erroneous information from an informer. Because the resident was previously a burglary victim, she had a gun for personal protection. A patrolman was killed when the resident fired a revolver through her locked bedroom door as the police attempted to batter it down. There is no evidence that there were any drugs in the house.

On April 20, 1973, at 10:45 p.m., Chicago police dressed in civilian clothes broke down with a sledgehammer the back door of a home. The resident later noticed that her address had been written in on the search warrant after the original address had been scratched out. Because of the large volume of such warrants handled by the authorizing judge, it is unknown whether the change was made in his presence. But it is known that no evidence of drugs was found in the invaded house.

In Portsmouth, Va., on January 26, 1973, an apartment dweller was awakened by the sound of her door crashing in and confronted by a gun-carrying detective who handed her a warrant. As other officers searched for heroin, the woman pointed out to them that the warrant was issued for a different apartment.

The home of a Rochester, N.Y., family was mistakenly broken into by State troopers executing 22 warrants during a massive drug roundup on the morning of September 20, 1972. The family's address was obtained from the telephone company, supposedly matching a number the police had overheard during a wiretap. The homeowner thought the men were burglars and stated he would have fired if he had had a gun. One higher official of the State police termed the incident an "insignificant detail" in the context of the entire raid.

Another example not included in the Times article is equally instructive. On June 8, 1971, Federal and local law enforcement officials, acting with a warrant, conducted what, in effect, amounted to a no-knock raid on the home of Kenyon Ballew in Silver Spring, Md. The agents—almost all of whom were wearing civilian clothes—did identify themselves before using a battering ram to break down the door to Mr. Ballew's home. But they were making so much noise that the residents inside could not understand them. When the agents finally broke in, Mr. Ballew—not realizing the invaders were law enforcement officials—understandably became frightened and fired a gun. Not one of the agents was injured; but the agents' gunshots struck Mr. Ballew in the head and left him paralyzed. The agents were apparently searching for illegally possessed hand grenades; upon inspection the hand grenades they seized turned out to be dummies.

The no knock provisions are dangerous not only because of the abuse of authority delegated to Federal agents; those provisions are equally dangerous because they breed an official attitude which places Government agents above the law. In numerous cases Federal agents conducted no knock raids without the required court warrant, apparently because they believed the warrant to be a procedural formality which they did not have to honor.

The Herbert Giglotto and Donald Askew families of Colinsville, Ill., for example, were subjected to indiscriminate ransacking of their dwellings and verbal and physical abuse by Federal agents of the old Office of Drug Abuse Law Enforcement the night of April 23, 1973. The agents burst into the residences without warning and without warrants; they did not identify themselves until much later. Not surprisingly, the Federal agents did not find any drugs; they had guessed the addresses of the residences to be searched. At a subsequent criminal trial, the agents were acquitted principally because the prosecutors failed to establish the agents' criminal intent. But the absence of criminal intent is of no solace to the families which endured the terror of the agents' night raid.

The Washington Star of January 4, 1974, detailed another example of the dangerous consequences when Government agents engage in surprise searches. On April 24, 1972, disguised agents of the old Bureau of Narcotics and Dangerous Drugs conducted a massive raid, by helicopter and by foot, on a mountain cabin in Eureka, Calif. The agents carried an arrest warrant—but not a no-knock warrant—to arrest a man believed to be dealing in drugs. Apparently the agents were primarily interested in combing the suspect's premises in search of a large "drug factory." The agents descended on the suspect's cabin without identifying themselves or their purposes. The frightened suspect fled from the unidentified invaders and was fatally shot in the back by an agent who claimed he mistakenly thought a fellow agent had been shot.

The "no-knock" provisions, and the official state of mind which they foster, are clearly at odds with principles of common law and the fourth amendment. According to early English law, the King's agents could not enter a citizen's home without first identifying themselves and their purposes. This fundamental principle was articulated as early as 1603 in Semayne's case (5 Co. Rep. 919, 916, 77 Eng. Rep. 194, 195 (1603) where an English court declared—

"In all cases when the King is a party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K[ing]'s process, if otherwise he cannot enter. *But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors. . . .*" (Italics added.)

The principle was upheld by subsequent court decisions. But it received perhaps its most eloquent articulation in a statement by William Pitt in the House of Commons in 1763. The Commons was debating a proposal to allow the King's agents to enter an individual's home unannounced to collect an excise tax on cider. In opposing this proposal, Pitt

made a forceful statement which warrants repetition here:

The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

It is unthinkable that a power denied to the King of England should be conferred upon Federal agents acting under our Constitution. In fact, the Constitution does not confer such power upon any government; it applies the same restrictions to which the King of England was subject.

These restrictions are embodied in the fourth amendment. That amendment states quite simply that—

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The purpose of this amendment is clear and unequivocal. It protects an individual's privacy against unreasonable intrusions by the Government. As one legal commentator stated—

[T]he Fourth Amendment did but embody a principle of English liberty, a principle old, yet newly won, that finds another expression in the maxim "every man's home is his castle." Fraenkel, "Concerning Searches and Seizures." 34 Harv. L. Rev. 361, 365 (1921).

As in the common law which first developed in England, the fourth amendment restrictions require that government agents identify themselves and their purposes before executing any search. This requirement is basic to the Constitution's protection of individual privacy. Discussing it in a case concerning the application of a Federal statute, the Supreme Court stated that—

The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application. (*Miller* v. *United States*, 357 U.S. 301, 313 (1958).)

The constitutional underpinnings of the requirement were discussed by the Supreme Court in *Ker* v. *California*, 374 U.S. 23 (1963).

This case concerned the arrest of Ker and his wife for possession of narcotics. After the police observed what appeared to be a sale of the narcotics to Ker, local police officers followed his car. Ker made a U-turn and eluded the police. The officers then found out the address of Ker's home apartment, went to that address, obtained a key from the landlord, and then entered the apartment without knocking on the door to identify themselves or the purpose of their visit. The officers arrested Ker and found some marihuana in his apartment.

The issue before the Court was whether the officers' entry into the apartment and their subsequent seizure of the marihuana violated the fourth amendment. Eight of the justices agreed that the constitutional standards of reasonableness embodied in the fourth amendment applied to the States as well as to the Federal Government. These eight Justices were also agreed that those standards generally require a prior announcement of identify and purpose before police execute any arrest and search. The only exceptions to this general rule occur when exigent circumstances become known to the police immediately prior to the execution of the arrest or search. One set of circumstances include a situation where a suspect is already aware of the officers' presence and purpose.

Applying this principle to the facts of the case before them, four Justices in Ker found that the arrest and search satisfied the constitutional standard of reasonableness. Speaking for these four, Justice Clark acknowledged exceptions to the requirement that police officers give prior notice of their identity and purpose. He stated that—

The exceptions can be invoked when the police become aware of "exigent[1] circumstances" (374 U.S. at 39) immediately prior to an arrest and search: "Without the benefit of hindsight and *ordinarily on the spur of the moment*, the officer must decide these questions in the first instance." (374 U.S. at 40, quoting *People* v. *Maddox*, 46 Cal. 2d 301, 306, *cert. denied* 352 U.S. 858 (1956) (Italics added).)

Justice Clark then found that a no-knock exception was reasonably invoked in the Ker case:

Here justification for the officers' failure to give notice is uniquely present. In addition to the officers' belief that Ker was in possession of narcotics, which could be quickly and easily destroyed, Ker's furtive conduct in eluding them shortly before the arrest *was ground for the belief that he might well have been expecting the police.* . . . [T]ime was of the essence. . . . The officers had reason to act quickly because of Ker's furtive conduct and the likelihood that the marihuana would be distributed or hidden before a warrant could be obtained at that time of night. 374 U.S. at 40, 42 (Italics added).

Justice Clark's judgment upholding the reasonableness of the Ker arrest and search—which reflected the reasoning of three other Justices—and was also concurred in by Justice Harlan, who applied a different standard.[2]

Four Justices dissented from that judgment—not because they disagreed with the principle enunciated by Justice Clark but because they believed the facts of the particular case warranted a different conclusion. Justice Brennan, speaking for the four dissenters, cited numerous cases in English and American law to support the requirement that police give prior notice of their identity and purpose before executing an arrest or search. He then summarized the teachings of these cases:

The protections of individual freedom carried into the Fourth Amendment undoubtedly included this firmly established requirement of an announcement by police officers of purpose and authority before breaking into an individual's home. The requirement is no mere procedural nicety or formality attendant upon the service of a warrant. Decisions of both the federal and state courts have recognized, as did the English courts, that the requirement is of the essence of the substantive protections which safeguard individual liberty, 374 U.S. at 49.

The requirement of prior notice is not only a constitutional necessity; it is also a practical necessity in the enforcement of the law. Justice Brennan, in an insightful passage, offered two basic reasons why this is so:

First, cases of mistaken identity are surely not novel in the investigation of crime. The possibility is very real that the police may be misinformed as to the name or address of a suspect, or as to other material information. That possibility is itself a good reason for holding a tight rein against judicial approval of unannounced police entries into private homes. Innocent citizens should not suffer the shock, fright, or embarrassment attendant upon an unannounced police intrusion.

Second, the requirement of awareness also serves to minimize the hazards of the officers' dangerous calling. We expressly recognized in Miller v. United States, supra (357 U.S. at 313, note 12) that compliance with the federal notice statute "is also a safeguard for the police themselves who might be mistaken for prowlers and be shot down by a fearful householder." Indeed, one of the principal objectives of the English requirement of announcement of authority and purpose was to protect the arresting officers from being shot as trespassers ". . . for if no previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost." Launock v. Brown, 2 B & Ald 592, 594, 106 Eng Rep 482, 483 (1819). 374 U.S. at 57–58.

Exceptions to the "firmly established requirement" of prior notice occur only when Government agents are confronted with exigent circumstances immediately prior to the search. According to Justice Brennan—

The Fourth Amendment is violated by an unannounced police intrusion into a home, with or without an arrest warrant, except (1) where the persons within already know of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted. 374 U.S. at 47.

The circumstances which could justify any one of these exceptions obviously could not be known in advance; they could become known only when the Government agents attempted to execute a search. That is why both Justice Brennan and Justice Clark agreed that the exceptions can be invoked when exigent circumstances become known to the police immediately prior to any arrest or search.

In contrast, the no-knock provisions allow a court to make an advance determination that such exigent circum-

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[1] According to Webster's Seventh Collegiate Dictionary, "exigent" means: "requiring immediate aid or action."

[2] Justice Harlan would apply a standard of "fundamental fairness" under the due process clause of the Fourteenth Amendment rather than the standards embodied within the Fourth Amendment.

stances will exist and to give government agents prior authorization to dispense with the announcement of identity and purpose before executing their search. This prior determination of exigent circumstances flies in the face of logic; in almost every case it will be impossible for a court to know hours—and perhaps days—before any search that a suspect will know who is at his door, that he will know what they want and that he will then attempt to destroy evidence or escape.

The no-knock authority is not only illogical; it also violates fundamental precepts of our constitutional system. As I have already shown, the no-knock provisions are inconsistent with the fourth amendment. For if the Government can have prior authorization to break into an individual's home, of what value is that amendment's protection against Government invasions of individual privacy? The no-knock authority likewise destroys the presumption of innocence which is due every individual. In order to issue a no-knock warrant, a court must presume that an individual, having already committed one crime, will commit at least one more; namely, the destruction of material evidence, the bodily injury of another individual, or an attempt to escape. By abandoning the presumption of innocence in these matters, the no-knock provisions assume many of the worst features of a Star Chamber proceeding. Under those provisions, expedience and not respect for the individual—becomes the law's guiding light.

Many years ago, Oliver Wendell Holmes observed that "the life of the law has not been logic; it has been experience." That observation is of obvious relevance to consideration of the amendment proposed today. For the experiences of the past few years have shown that the no-knock authority is a dangerous affront to the right to privacy guaranteed to every individual under the common law and the fourth amendment. The no-knock provisions condone the kind of Government behavior which inspired the American colonies to revolt in 1776; and such provisions foster an official state of mind which makes the law's protection of individual privacy a meaningless gesture.

There should be no question, therefore, about the wisdom of repealing the no-knock provisions. This is particularly so since they have proved to be a rarely used enforcement tool of dubious utility. After considering the merits of this issue, I am hopeful that the full Senate, and ultimately the House as well, will concur in the need for this amendment.

Mr. President, I ask unanimous consent to insert in the RECORD some newspaper articles discussing the raid on the home of Ken Ballew and the general dangers of the no-knock provisions.

Mr. President, I ask unanimous consent to have printed in the RECORD, newspaper articles discussing the raid on the home of Kenyon Ballew, and the general dangers of the no-knock provisions.

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

[From the Evening Star, June 8, 1971]

MAN SHOT IN RAID ON HOME

(By Woody West and William Basham)

A 27-year-old Silver Spring man was in critical condition today after he exchanged gunfire last night in his home with federal agents and Montgomery County police looking for illegal hand grenades. The wounded man's wife said she and her husband thought intruders were breaking into their home when the raid occurred.

According to a spokesman for the alcohol, tax and firearms division of the Internal Revenue Service, the raid was carried out at 8:31 p.m. after a lengthy investigation by Montgomery police. He said after shouting several times, "Police," and "Federal officers, open up," the police gave the word to break in the door.

At the Washington Sanitarium and Hospital is Kenyon F. Ballew of 1014 Quebec Terrace. He works as a plate carrier at The Star and The Washington Post and is waiting to become an apprentice pressman.

Earlier last night agents raided another apartment in the building. A copy of the search warrant they left behind said "No items seized."

Living in that apartment are Mrs. Josephine R. Murphy, her 10-year-old daughter, Miriam, and a baby. Miriam said she was alone at home when the agents began knocking on the door and shouting. She said she wasn't sure what they were saying.

She said her mother had told her never to open the door when alone unless she knew the person or unless it was the police. After a bit, Miriam said, it sounded like they were saying "police," and she finally opened the door.

The girl said the agents told her to sit on the couch and then searched the apartment, leaving clothing on the floor. Her mother, who was not there today, returned just before the agents and police left.

ACKNOWLEDGES RAID

A federal spokesman acknowledged the raid there, but said it was based "apparently on bad information."

Ballew's wife, Sara, said that at the time of the raid she shouted through the door several times to find out who was on the other side, but was unable to make out what they were saying because of the beating on the door.

Mrs. Ballew said she then ran to a bathroom where her husband was in the tub and told him someone was trying to break in. She said their neighborhood is "kind of rough."

Mrs. Ballew said she told her husband, "Kenny, Kenny, they're breaking in, where's the gun?" He told her to get a .36-caliber cap and ball revolver from their bed, a weapon he had been repairing.

At that moment, Mrs. Ballew said, her husband ran to a bedroom wall and grabbed one of the guns from his antique reproduction gun collection—a loaded cap-and-ball Colt .44. As the couple started into the living room, she said, they saw two men—one wearing a yellow sweatshirt and with a beard, and the second in blue jeans, sneakers and also bearded.

SIMULTANEOUS SHOTS

Mrs. Ballew said the second man brandished a gun and that she heard "both guns go off at the same time." Her husband then slumped to the floor. A federal spokesman said Ballew fired first and agents and police fired three shots in return.

"I started screaming, "Get the police—murder," Mrs. Ballew said.

"We are the police," she quoted one of the men as saying.

Mrs. Ballew, who was wearing only underpants, said she then was pushed against a wall. She said she did not see uniformed men entering the room at the time of the shooting.

An IRS spokesman said their warnings before the door was broken in "could be heard clearly on the street." He added that the men who entered the room had their badges pinned on the outside of their clothing.

Mrs. Ballew said she was allowed to dress, told she would have to go to the police station, and handcuffed. She said that on their way to a station, a man in a blue suit identifying himself as an agent, intimated that the raid might have been an error, when he said, "These things do happen." This was strongly denied by the IRS spokesman.

DISAGREE ON CLOTHING

Mrs. Ballew said, "If they'd come in in uniforms, there wouldn't have been any shooting. I was sure someone was breaking in when I saw how these two men were dressed—like Yippies." The IRS spokesman said the agents were dressed in civilian clothes, but not in the bizarre outfits described by Mrs. Ballew.

Mrs. Ballew said her husband bought three pounds of black powder three weeks ago from a gun shop. She said they went target shooting with the muzzleloaders about once a month.

The inventory on the back of the search warrant that was left at the apartment noted that agents had seized "1 baseball type plastic body hand grenade; 1 canaster (sic) grenade; 1 hand grenade canaster grenade; 1 military hand grenade fragmentation type."

Mrs. Ballew said all were empty casings. The baseball-type plastic container had been used to store oil at one time, she said, adding that her 7-year-old boy used to play with the heavy, serrated fragmentation shell. She said that is a practice grenade her husband had brought home from the service.

The IRS spokesman said most of the weapons were loaded.

Mrs. Ballew said the 13 reproductions of muzzle loaders and flintlocks were kept loaded in wall racks to save time when they went shooting. She said it takes considerable time to load them.

She said 13 muzzle-loaders or flintlocks were taken by the agents. These, however, were not listed on the inventory space on the back of the search warrant. She said a small electric clock also was confiscated, in addition to her accordian and, a neighbor told her, her new portable sewing machine.

The IRS said agents seized hundreds of shotgun shells of various gauges, 152 rounds of .357-caliber ammunition, 90 rounds of M–1 tracer bullets, 75 boxes of ball ammunition, two pounds of black gunpowder and two pounds of smokeless gunpowder.

Mrs. Ballew said her husband reloads empty cartridge cases and shotgun shells as a hobby, adding that he used to reload and sell cartridges to District policemen.

AQUARIUMS SHATTERED

The basement apartment in the older garden-type development was a shambles. At least 2 of 10 large aquariums in which Mrs. Ballew raised tropical fish were shattered by gunfire. Chair and couch cushions were heaped on floors. In the bedroom, all the clothing had been taken from closets and bureaus and heaped on the floor and bed.

There was still water in the bathtub.

Mrs. Ballew said her husband has been in trouble once before. She said he was arrested near their home and charged with carrying a concealed weapon—a .38-caliber pistol—that he carried with him when working late-night shifts at The Star. She said the charge was not prosecuted because there was a ruling of an illegal search.

The wounded man's stepchildren—the 7-year-old boy and a 20-month-old daughter—have been staying with Mrs. Ballew's mother in Hyattsville for the last month because Mrs. Ballew has been working part time, often until late at night.

[From the Congressional Record, June 30, 1971]

TRAGIC SHOOTING

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, new evidence has come to light in the tragic shooting June 7 of a Silver Spring, Md., man by Federal agents and county police who smashed down his door, Gestapo-style, to execute a search wararnt.

When I addressed the House on June 14, outlining the circumstances of this sordid episode, it was clear to me that such outrageous and irresponsible operations by the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service made it imperative that a thorough investigation be conducted immediately to bring to account those responsible, and put a stop—once and for all—to these storm trooper tactics.

I had written a letter that day to Mr. Connally, the Secretary of the Treasury, informing him that the facts to which I then had access were most disturbing, and were casting his Department—of which IRS is a part—in the worst imaginable light. I strongly urged him to investigate, but I regret to say that I have yet to receive a substantive reply.

Briefly, the background was this: According to newspaper accounts, ATFD agents and Montgomery County police—some of them dressed in casual, or "hippie"-style clothes, and some of them bearded—obtained a search warrant to look for supposedly "unregistered hand grenades" in the Quebec Terrace apartment of Mr. Kenyon F. Ballew, a pressroom employee of the Washington Post and the Evening Star.

The warrant appears to have been issued on the recitation of second- or third-hand hearsay, some of which had no connection whatever either to Mr. Ballew or to any wrongdoing. The agents bashed down his door with an 85-pound battering ram while Mr. Ballew was taking a bath, and shot him.

For all this, what did the officers find? They found four empty, harmless, dummy handgrenade casings of types used by the Army for training or practice purposes. Mrs. Ballew said her husband had had them since he was 15 years old, and their 7-year-old son played with one of them as a toy.

The acting superintendent of police of Montgomery County, Col. Kenneth Watkins, held a press conference last week to justify this deplorable affair. He said that he had conducted an investigation of the incident, but then admitted that he had talked only with the officers who took part in the raid. His conclusion, therefore, was not surprising, but the phraseology must rank among the year's most pretentious. He said:

"The search was legally and procedurally conducted in the proper manner."

Though Colonel Watkins insisted that his department participated in the raid only at the request, and in support of, the ATFD, he found *nothing* particularly objectionable about using police dressed as thugs to invade private homes. He refused to rule out similar escapades in the future.

Colonel Watkins did not explain why such disguises were necessary to begin with, especially since the proper first step in executing any warrant is to make one's identity as a police officer unmistakably known. If the ATFD has any such explanation, it has not been forthcoming.

Which brings us to the particularly interesting part of the superintendent's statement. The officers allegedly knocked on the door and announced: "Federal agents with a search warrant. Open up." According to the official story, the officers received no response from within. All of them claimed that they heard movement in the vicinity of the door which every one of them described—coincidentally, of course—with exactly the same word: "scuffling." Again, unsurprisingly, even the superintendent adopted that term. In his words, there was "no verbiage, only scuffling." After a few moments, according to this official account, having thus been "denied entry," the six officers—only one of whom was in uniform—broke down the door.

All this is important because officers executing a Federal search warrant have no authority to break down a door unless they have first been denied admittance.

Now, Mrs. Ballew, who was dressed only in panties at that moment, has said all along that she went to the door when she heard violent pounding and shouting outside, and that she asked repeatedly: "Who is it—who's there?" She said she could not understand the response because of all the commotion they were making, so she went to get her husband. It would seem odd indeed that all these officers could so plainly hear what they called "scuffling" inside—which must have been the relatively soft sounds of Mrs. Ballew moving to and from the door—but were unable to hear her voice when she asked who was there.

Well, it has now come to light—from previously unrevealed written statements made by two of these officers at police headquarters the night of the shooting—that in fact they did hear her answering them. Not once, but twice, and that they were unable to understand what she was saying.

So what did they do? They disregarded it completely. Evidently, they made no attempt to find out what she was trying to tell them. They heard her voice—they admit it. They did not know what she had said. And they went ahead and broke down the door anyway.

There were dozens of things this woman might have been trying to tell them, like: "I'm not dressed, wait until I put on a robe." Or, if the door had a double cylinder lock: "Wait until I find the key." In fact, however, Mrs. Ballew was asking who was there. The officers had failed to identify themselves to her, and she hardly can be blamed for not opening the door immediately to shouting and pounding strangers, particularly when she was undressed.

Mr. Speaker, one can conlude only that the behavior of these officers in forcing their way into that apartment, if not an act of criminal negligence, was in reckless disregard of the rights and safety of the persons who lived there. As a direct result of callous indifference and overzealous haste, these officers precipitated a confrontation that left Mr. Ballew critically wounded with a bullet in his brain.

Now I would like the ATFD, or Colonel Watkins, or anybody else to explain how that is "legally and procedurally proper." Until the officers outside know what the person inside is trying to say to them, how can they conclude that they have been denied admittance? And I stress under title 18, United States Code, section 3109, until they have in fact been denied entry, they have no right to break down the door.

This is a very serious matter, for either Colonel Watkins has not been telling the truth, or someone has not been telling him the truth. I might add that these documents which have been brought to my attention are official police reports, and were readily available to him long before his press conference.

Some other interesting facts also have been revealed in the past few days. The search warrant issued for the Ballews' apartment specified on its face that the officers were limited to "serving this warrant and making the search in the daytime." As any first-year law student knows, a warrant is valid only under its terms; in short, it expired at sundown for the night. What time was sundown on June 7? It turns out to have been 8:31 p.m. What time did the officers write in the blank provided on the warrant for time of execution? Exactly—what a coincidence—8:31 p.m.

But even this ingenuity does not save them. The officers served the warrant by making the entry: even if one accepts that they scooted in under the wire, it was physically impossible to even begin let alone complete, a search in the daytime, as specified in the warrant.

It also was claimed by police that they fired only after being fired upon by Mr. Ballew. Mrs. Ballew says she saw her husband's antique cap and ball gun flash as he slumped to the floor, very slowly, after being hit in the head by a police bullet. Police documents now show that Mr. Ballew's gun discharged only one shot, and that a spent slug was recovered from the wall about eight inches from the floor next to where Mr. Ballew fell. The police would not say, but Mr. Ballew's attorney says the slug pierced a bookcase in a direction at right angles to the line of fire between the officers and Mr. Ballew.

By its position, he says, it could have come only from Mr. Ballew's antique revolver. If that is true, it bears out Mrs. Ballew's account that the police opened fire first. The police, it is now conceded, fired a total of seven shots.

This entire evening, insofar as the Internal Revenue and the Montgomery County Police Department were concerned was a complete foul-up from start to finish. It was bad enough that the officers brutally mishandled Mrs. Ballew, shoving her out in the apartment house hallway, half-naked, while they ransacked the apartment and carried away dozens of articles of personal property, without lawful authority. But, in the grisly aftermath, one ATFD agent even chased down to the hospital where doctors were struggling to save Mr. Ballew's life, and proceeded to extract powder residue samples from the unconscious man's hands.

Another search made simultaneously by other ATFD agents in a second apartment directly over the Ballews' was an even more obvious bungle. In this case also, a search warrant specified "unregistered hand grenades." I recently received a copy of the sworn affidavit submitted by ATFD Special Investigator Marcus J. Davis to obtain that warrant from U.S. Magistrate Archie Meatyard.

Incredibly there is not even a mention of hand grenades in that affidavit. Rather, it recites a vague tale of an attempt by one James Russell Thomas to sell some unnamed person a sawed-off shotgun. There was also a discussion of police reports of some unknown persons shooting what sounding like a gun somewhere in the neighborhood of Quebec Terrace on several unspecified occasions in the past. An identical allegation had appeared in the affidavit for the Ballew warrant. In neither case did it have any discernible connection with either Mr. Ballew or with the occupant of the apartment upstairs, who, it turns out, is a Mrs. Murphy and her daughter. The fact that the same allegation appeared in both affidavits clearly shows how nebulous it was—the agent apparently could not make up his mind who to pin it on, so he pinned in on both of them. And incredibly, the magistrate approved them both.

The agents searched the Murphy apartment, but found no hand grenades, no

sawed-off shotgun, or—for that matter—no one who had ever even heard of James Russell Thomas. The officers left a copy of the warrant with Mrs. Murphy It read, simply: "No items seized."

It would appear that not only was the anonymous police informant unreliable, but that his information had no more to do with hand grenades than with marijuana or numbers slips. So my question is: did this magistrate even bother to read the affidavit applying for the search warrant? Or does he just rubber stamp any request, no matter how preposterous?

I am appalled to find that the constitutional protections enjoyed by the American people from unreasonable and arbitrary search of their homes have been so completely eviscerated. I have said before, and I say again: If Federal agents are going to be able to obtain search warrants from magistrates based on information that is not only flimsy, but totally irrelevant, the Congress ought to take a hard look at tightening up these procedures to provide more safeguards for the rights and security of innocent citizens.

Mr. Speaker, the issues in the shooting of Kenyon Ballew are of national significance. This was an operation undertaken by an agency of the Federal Government and it could have occurred anywhere in the country. The Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service has acquired enormous power as a result of recently passed firearms laws. If the behavior of ATFD in this matter is representative of its regular procedures, literally not citizen is safe in his home. It appears the agency is totally out of control. One may look for similar situations in nightmares or in the Orwellian age of 1984. It strains the imagination to contemplate a Federal agency with its agents careening wildly about the countryside, costumed as hippies, executing process at doubtful hours by smashing in householders doors, often in the wrong domicile, terrorizing children, frightening citizens, shooting householders, and dishonoring their women. Yet that appears to be exactly what happened in this instance.

Some very grave questions have been raised, and I believe the American people deserve honest and complete answers. So far they have not received them. The Internal Revenue Service has had 3 weeks to frame the answers and to explain its behavior. The long delay and the circumstances are beginning to raise questions as to both integrity and whitewash.

In Montgomery County, the State's attorney's office has announced that the case will be presented to a grand jury July 12. But grand jury hearings are, of course, secret proceedings, and there is no assurance that the jury will receive anything more than the official police story. More important, the grand jury may not have available to it certain facts it must have to blame or absolve anyone. It is still not know, for example, which officer shot Mr. Ballew. Only ballistics tests can tell, and the bullet remains lodged in Mr. Ballew's head, where it cannot be removed at present. And, Mr. Ballew—whose testimony is certainly crucial—is in a coma and cannot testify.

So what is going to be accomplished by a premature presentation to a grand jury? One suspects that the grand jury will be unable to affix fault to anyone, and that the case will then be in a legal posture to be closed and forgotten.

It seems to me that the only way we are going to get to the bottom of this is to have a full, thorough, and—above all—a public disclosure of all the facts. I again call on Secretary Connally to do precisely that. The public interest demands that this case not be buried or whitewashed, and I urge the Secretary not to let that happen. Those responsible for this travesty should be brought to account, and steps taken to insure that it never recurs.

A related investigation by county authorities, according to today's Washington, D.C., Daily News will receive statements only from police officers and perhaps from Mrs. Ballew. One must wonder what can be gleaned from such an investigation, when the first "investigation" involved exactly the same parties. I am curious how wrongdoing can be discerned in the analogous case of hearing only from the driver charged with reckless driving.

I insert at this point in the RECORD an editorial from the Washington Daily News of June 25, entitled "Tragic Bungling in Police Raid"; an editorial entitled "Tragic Raid," broadcast June 14 on stations WMAL–TV and WMAL–AM and FM, Washington, D.C.; two articles by Washington Post columnist Bill Gold, which appeared June 15 and 18; and a news item from the June 30, 1971, issue of the Washington Daily News carried under the headlines "Raid Statements Challenged." "Police Documents Contradict Chief":

[From the Washington Daily News, June 25, 1971]

TRAGIC BUNGLING IN POLICE RAID

In the three weeks that have gone by since the shooting of a 27-year-old gun collector during a raid on his Silver Spring apartment by U.S. Treasury agents and Montgomery County police, nothing has happened to erase our original suspicion that the whole tragic operation was ill-conceived at the start and bungled at the finish.

If Kenyon Ballew was guilty of anything other than trying to protect his family from what to an ordinary man must have seemed to be a terrifying assault by strangers upon his home, no one has shown it.

The fact that he is under intensive care at a hospital with a bullet in the brain does not explain why he hasn't been charged with keeping hand grenades (those that were seized in the raid were "dummies," empty casings, according to his wife) and police themselves admit that the guns in his collection were legally his.

Treasury agents had secured a search warrant from U.S. Magistrate Archie Meatyard on the basis of information which an unidentified source had passed on to a Prince Georges County policeman who in turn had tipped the Treasury. The frailty of this information is demonstrated not so much by the double or triple hearsay as by the simple fact that after the raid and the shooting nothing appears to have been found to justify the action in any way.

It's acknowledged that "no-knock" raids entail some possible perils other than those to the Constitution, but this was not exactly a "no-knock." The lawmen, some of whom, at least, appeared to be dressed in "hippy" clothes, smashed down the door at dusk with a battering ram (the warrant did not permit a nighttime raid). How much warning they gave of their identify and intention is hard to tell. The way things went, it would take an immoderately trustful householder to believe that he had nothing to fear from the intruders.

If there's any good excuse for what happened to the Ballews, we'd like to hear it, starting with Mr. Meatyard, who seems to have licensed a search without first determining what less traumatic measures might be taken first. Like how about sending a policeman around in uniform some morning to knock on the door and make polite inquiry as to the armaments kept therein? Who knows, he might have been shown around.

Finally, there is no excuse for the action of Montgomery's Acting Police Chief Kenneth Watkins who still insists upon keeping secret the facts in this case, public information which the people have every right to know.

It is necessary to remind Col. Watkins that police business is public business, and that police, even when they make mistakes, are reponsible to the people and to no one else.

[WMAL editorial, June 14, 1971]

TRAGIC RAID

The outrageous behavior of lawmen invading the apartment of a Silver Spring gun collector demands an investigation at the highest levels. Montgomery County police and federal agents, some dressed in civilian attire, banged on the door of 29-year-old Kenyon Ballew while he was taking a bath and his wife was undressed. According to Mrs. Ballew, the strangers did not make clear their identity as police; Ballew was shot when he attempted to defend his household against what he thought were intruders. The police explanations so far have been unsatisfactory.

This tragic case of mistaken assumptions could have been avoided if the police had more properly identified themselves. Why did they think it necessary to conduct a Hollywood-style door-busting raid? Why did not they clearly say "Police," instead of muffled pounding at the door? Most importantly, why did some come calling in old clothes that made their mission look menacing? Such behavior by lawmen cannot be tolerated, whenever it occurs. It is too late for Kenyon Ballew. But future raids should be conducted by uniformed police who identify themselves clearly.

[From the Washington Post, June 15, 1971]

THE DEFENSE IS RESTING

(By Bill Gold)

"Don't use my name," writes a Hyattsville gun collector. "I don't want to be the next one that gets his door broken down by the police.

"I just want to put a simple question to you.

"There was a raid over in Silver Spring the other day in which the police broke into a man's home and the first thing he saw when the door came down was a couple of hippies with beards and sloppy clothes and so forth, so he began firing. I'd have done the same thing and maybe would have shot a little straighter.

"All I want to ask you is this: Why do they use plainclothes police on an assignment like breaking down the door to a man's home? At the very least, shouldn't the householder see a uniform first? You are always defending everything the police do, I would like to hear how you defend this."

I do not defend it.

And I think my correspondent will agree that he overstated his case when he said I defend "everything" the police do.

I support actions and ideas that I consider right, and I criticize those I consider wrong. Ordinarily, I think policemen are on the side of the right, and they are therefore supported here.

But the raid referred to by my correspondent was quite another matter. If plainclothesmen were used to lead the way into the raided apartment, I think bad judgment was used. Anybody can shout "Open up, we're the police," but cautious householders are aware that not everybody who claims to be a policeman really is. Having plenty of uniformed policemen in plain sight would appear to be rigid requirement on raids of this type.

Let me ask a simple question of my own. Numbers slips and horse bets can be destroyed in seconds. But in this case, the police were searching for "hardware"—guns and grenades. So why was it necessary to break down the door to gain immediate entry? If there was contraband inside, it would still be there a minute later.

[From the Washington Post, June 18, 1971]

ALLEN'S ALLEY WAS UNIQUE

(By Bill Gold)

People who pound on my door irk me. I don't know why, but they do, and I appraise you at the outset to put you on guard against any bias that may creep into these lines.

People who pound on my door are usually meter readers, deliverymen or others with legitimate business to transact.

Solicitors, salesmen and others who are not sure of a warm welcome usually ring the doorbell or, at the very worst, knock politely. They don't bother me. The people who irk me are the ones who pound instead of knocking, and at the same time keep a finger on the bell.

On the old Fred Allen program, Fred used to knock on various doors along Allen's Alley and the doors would be opened at once by Titus Moody and Mrs. Nussbaum and all the other regulars on the show. When you consider that Allen paid these actors a handsome wage to stand by the door and be ready to respond on cue, it's not hard to understand why they answered so quickly.

However, most householders cannot stand by the door all day, poised to spring to attention at the first indication that somebody is coming up the front steps. They have chores to perform elsewhere in the house, so it sometimes takes them a few seconds to answer the door.

Yesterday morning, for example, I was in my bedroom when the doorbell sounded and in that same instant somebody began pounding on the front door with such intensity that the house shook.

"Who is it?" I yelled through the open window, but the doorbell and the pounding created so much noise the pounder couldn't hear me. "All right, all right," I yelled at the top of my lungs, "Keep your shirt on."

I might as well have saved my breath. The deliveryman at the door hadn't heard me, and by the time I got to the door, he was back in his truck and grinding his gears for a fast getaway.

Perhaps if I were a deliveryman or a meter reader or a person with similar duties, I would also become impatient with householders who fail to open the door at once. I might even become suspicious of all doorbells because one or two in my experience had proved to be out of order. Perhaps I would develop the habit of pounding on the door with one hand as I kept a finger on the doorbell with the other. And if this irked crabby householders like Bill Gold, so what? Knocking on doors all day long and waiting for slowpokes to open up is also irksome.

I was about to dismiss the entire matter from my mind when I suddenly found myself wondering whether something of this kind might have taken place in the recent police raid in Silver Spring. Did the door pounding and bell ringing prevent the housewife from hearing the raiders announce that they were policemen? Did this same commotion prevent the raiders from hearing her response?

Before any additional misunderstandings put lives into jeopardy, it would be well for policemen in all of this area's jurisdictions to review their procedures. In the District and in other places, policemen refused immediate entry have used everything from bullhorns to telephones in attempts to communicate peacefully before resorting to battering rams. Knocking down the door should in many instances be a last resort, not an opening move.

[From the Washington Daily News, June 30, 1971]

RAID STATEMENTS CHALLENGED: POLICE DOCUMENTS CONTRADICT CHIEF

(By Diane Bauer)

Confidential documents from the files of Montgomery police and federal agents, obtained by The Washington Daily News, contradict a report released three weeks ago by Police Chief Kenneth Watkins on a raid in which Kenyon F. Bailey was critically injured by a police bullet.

Police and Treasury agents, some bearded and in hippie clothes, on June 7 had used a sledge hammer to force their way into Mr. Ballew's apartment at 1014 Quebec Terrace, Silver Spring, with a search warrant for illegal hand grenades. They found only souvenir grenade casings which were part of his legal gun collection.

The reports made by Treasury agents and county police in the raiding party failed to support charges in a report commissioned by Col. Watkins that Mr. Ballew fired first at police or even the chief's later assertion that Mr. Ballew and the raiders fired simultaneously.

Altho the police reports state that Mr. Ballew was holding a pistol, no member of the raiding party reported that Mr. Ballew fired the pistol at any time.

POLICE FIRE

The leader of the raiding party, Treasury agent William Seal, said in a statement taken the same night at the Silver Spring police station, that when he broke in and saw Mr. Ballew, "I fired one round from my pistol at him and yelled, 'He's got a gun' . . . I fired once more and at the same time I heard weapons firing from behind me which I believed to be covering my attempt to gain cover."

Five separate police reports state that officers fired as a result of hearing agent Seal's cry "he's got a gun" and because of the subsequent gunfire.

Saralouise Ballew, now in the 22nd day of a vigil at her critically-wounded husband's bedside, stated that her husband had picked up an antique gun from his collection to defend her from the intruders.

John T. Bonner, the Ballew's lawyer, said that Mr. Ballew's ancient cap and ball pistol discharged as he sank to the floor wounded by a hail of police bullets.

Mr. Bonner said that the physical evidence at the scene of the raid and his own personal inspection of the police reports showed that Mr. Ballew never fired at the police officers and that his gun fired in a direction away from the raiding party.

Criticism on the floor of Congress from Rep. John Dingell, D-Mich., and Gilbert Gude, R-Md., plus inquiries from the White House, resulted last week in the ordering of a second review of the incident by Republican County Executive James P. Gleason.

The county executive said that the new investigation will not include testimony from residents of Quebec Terrace, who observed police behavior during the raid, and will be limited, like the first report, to the testimony of police officers, with the possible inclusion of a statement from the victim's wife.

CHARGES

The confidential documents state, "In the event Mr. Ballew recovers from his wounds, warrants will be obtained charging him with aggravated assault on the officers."

Andrew L. Sonner, Montgomery County State's Attorney, said on Monday no charge will be made against Mr. Ballew and that no charges against police will be made.

"Not unless the grand jury does something," Mr. Sonner said, "But I don't expect anything to come out of that grand jury. You know—there will be a report in September, saying that police procedures should be different."

Mr. Ballew, 27, is in the intensive care unit of the Washington Sanitarium with a police bullet in his brain. Hospital officials said he has only a 40 per cent chance to live and that he has suffered permanent brain damage which will cripple him for the rest of his life.

[From the Evening Star, June 9, 1971]

BEALL FINDS NO FAULT WITH RAID

(By Lance Gay)

Maryland's top U.S. prosecutor has found no fault in the actions of plain-clothes Treasury agents who broke into the apartment of a Silver Spring gun collector looking for a cache of arms and critically injured the man in an exchange of gunfire.

The wife of Kenyon F. Ballew said that her husband thought the agents and Montgomery County police officers—who were bearded and in sports clothes—were intruders who were breaking into their home.

"We're satisfied they (the Treasury agents) conducted themselves within both the spirit and letter of the regulations" on carrying out search warrants, U.S. Attorney George Beall said last night. "Legally, they're on very solid ground. From our point of view, they did nothing extraordinary, nothing reckless, nothing culpable, nothing wrong."

Beall said that he and members of the Alcohol, Tobacco and Firearms Division of the Treasury Department, have extensively reviewed the incident "from beginning to end."

"These men literally conducted a letter-perfect execution of their search warrants—legally speaking," Beall said, "—with the exception of the unfortunate incident that occurred."

Ballew of 1014 Quebec Ter., Silver Spring, remained in critical condition in the intensive care section of Washington Sanitarium and Hospital this morning, with a bullet wound in his head.

The agents, accompanied by county police, went to two apartments in the building with search warrants issued in Baltimore. The warrants were granted on "information from a number of sources that there was a large cache or stock of guns and ammunition at this location. . . . Based on the information the agents felt it was imperative to go forward with the request for a warrant, which was duly issued," a deputy U.S. Attorney said yesterday.

Beall said that five men—two Treasury agents, two plainclothes county officers and one uniformed county officer—arrived at the basement apartment at the Quebec Terrace address shortly after 8:30 p.m. They found it had a steel door and one Treasury agent knocked on the door, Beall said.

BATTERING RAM

He then knocked on the door harder and announced that he was an agent from the Alcohol, Tobacco and Firearms Division of the U.S. Treasury Department and that this was a raid. Beall said the agent "put his ear to the door," and heard "scuffling" inside, but no one came to the door.

The three county policemen, armed with an 85-pound battering ram, then gave the door six blows, which forced it open 12 to 16 inches, allowing one treasury agent to squeeze through into the apartment, he said.

Beall said that the agent was in plain clothes, but had a badge in his left shirt pocket and a search warrant in his hand. His gun remained in his holster, Beall said.

The agent reported that the first thing he saw upon entering the apartment was a man standing at the end of a corridor with a pistol. The agent then "hit the deck and pulled his own gun."

However, Beall said that he did not know how many shots were fired, who fired first or whether the federal agents or the county police officers fired the shot which critically wounded Ballew.

Mrs. Ballew contradicted this version. Her husband, she said, was armed with a cap and ball reproduction of an antique Colt .44.

As the couple—alarmed by the sounds of the battering ram—started up the corridor to the living room, they saw two men—both bearded, one wearing a yellow sweatshirt and the second in blue jeans and sneakers.

Mrs. Ballew said that the second man brandished a gun and that she heard "both guns go off at the same time." Her husband then slumped to the floor. A federal spokesman said yesterday that Ballew fired first, but Mrs. Ballew recalled seeing the muzzle flash from the cap-and-ball weapon as he slumped, indicating that he pulled the trigger after being hit.

However, she added, it is possible to get a "multiple flash" from such a weapon.

"I started screaming, 'Get the police—murder," Mrs. Ballew said.

"We are the police," she quoted one of the men as saying.

According to the inventory on the back of a search warrant agents left at the apartment, they seized "1 baseball type plastic body hand grenade; 1 canaster (sic) grenade, 1 hand grenade canaster grenade; 1 military hand grenade fragmentation type."

[From the Washington Post, July 20, 1971]

LAWYER SAYS MARYLAND RAID BASED ON YOUNG HOUSEBREAKER'S TIP

(By Jim Mann)

U.S. Treasury agents obtained a warrant to raid the Silver Spring apartment of Kenyon F. Ballew last month solely on the basis of information from a 17-year-old youth who had been arrested on housebreaking charges, Ballew's attorney charged yesterday.

In an affidavit filed in support of the request for a search warrant, a Treasury agent had said the youth was reliable because he had provided police with accurate information on three housebreakings. But the affidavit did not point out that the accurate information was based on the confession of the youth that he had committed the breakins himself, John T. Bonner, Ballew's attorney, said.

Ballew, a gun collector with more than 30 firearms in his apartment, was shot in the head and critically wounded in the raid June 7 by Treasury agents and Montgomery and Prince George's police.

Ballew's wife has said the Ballews believed the lawmen—some of whom were dressed in casual clothes—were attempting a burglary when they broke into the apartment. The incident has sparked investigation by the Treasury Department, Montgomery County officials, a county grand jury and the State Human Relations Commission.

In other developments in the case yesterday:

Treasury officials confirmed reports that five of the 14 Treasury agents participating in the raid had had one year or less experience with the Alcohol, Tobacco and Firearms Division of the Treasury Department and that the first agent to enter the apartment—apparently the leader of the raid—was one of the five.

Montgomery County Executive James P. Gleason, in his weekly press conference, hit back at criticism of the raid as "Monday morning quarterbacking." Gleason chose the occasion to appoint Col. Kenneth M. Watkins, who has been acting county police chief since March 31 and headed the department at the time of the Ballew raid, as his permanent police chief.

In applying for a search warrant to raid Ballew's apartment, Treasury agent Marcus David cited two different instances—one in Montgomery and the other in Prince George's—in which an unnamed "source" provided "information" to local police regarding illegal hand grenades in Ballew's apartment.

In the Prince George's case Davis said in an affidavit, "the source's reliability is based on three separate reports of burglaries in the Langley Park area of Montgomery and Prince George's counties, which, according to police reports, in fact took place or were attempted."

Bonner charged yesterday that the "source" was the same in both counties: a 17-year-old who lived in the building next to Ballew's at the Quebec Terrace Apartments on New Hampshire Avenue.

One June 6, the night before the raid, the informant was brought to headquarters by Montgomery police for questioning regarding housebreakings in which he had been implicated, Bonner charged.

Bonner charged that the informant confessed to three housebreakings.

Bonner said that after the youth was questioned by Silver Spring detectives he was taken to Prince George's County detectives for further interviews, and it was there that he became the "source" for the information provided to Prince George's County detectives.

"He never really gave them information like an informer," Bonner said. "He hates police, has been a thief all his life."

The affidavit provided in support of the search warrant says that two Montgomery County detectives interviewed the "source" at the Silver Spring police station on June 6, the day before the Ballew raid. No date is given in the affidavit for the interview with the "source" in Prince George's County.

Montgomery County police refused to comment in any way on the basis for the information regarding Ballew.

"I honestly do not know who the informant is," said Col. Watkins, shortly after he was sworn in as the new police chief yesterday. "An officer never asks another officer the identity of an informant."

All attempts to find confirmation of Bonner's account were unsuccessful.

When Lt. Miles R. Daniels of the Silver Spring detective bureau was asked whether the youth named by Bonner had been questioned on June 6 by his detectives about housebreakings, he told a reporter: "You'd have to get that from central headquarters."

At central headquarters, Insp. Fred P. Thrailkill, who is in charge of all investigations by county detectives, was asked the same question.

"I don't know why he (Daniels) referred that to me. It's not normal for him to refer something like that to me," Thrailkill said.

The inspector said he would obtain the information and call back, but he did not do so, and further attempts to reach him were unsuccessful.

In Baltimore, Assistant U.S. Attorney Charles Bernstein said that the U.S. attorney's office is never told the identify of confidential informants.

"'We don't know who the sources are," Bernstein said. "My understanding was that these were two different sources of information used by the two different departments in Montgomery and Prince George's."

Asked whether it was possible that there was only one informant in the case, Bernstein said, "If that is so, it's contrary to what I'd been led to believe by the agent."

But Bernstein reaffirmed the position of U.S. Attorney George Beall that the search warrant was valid.

He said that a federal report on the raid being prepared by the Treasury Department "will confirm George Beall's original statement that there was nothing improper by any of the officers."

Bonner said yesterday that last Friday for the first time he interviewed the youth who he says was the informant in the Ballew raid.

He says he deducted the identity of the informant from a statement in the affidavit that says "on May 5 or 6, 1971, the source observed a quantity of hand grenades in Apt. 2, 1014 Quebec Terr. (Ballew's apartment)."

Mrs. Ballew remembered a youth who had been in the apartment on one of those days, Bonner said.

Bonner said he could not persuade the juvenile to record or sign a statement. The juvenile has been subpoenaed to appear today before a Montgomery County grand jury investigating the Ballew shooting, Bonner said.

Meanwhile, a spokesman for the Treasury Department confirmed that William H. Seals, first law enforcement official inside the Ballew home, had one year of experience with the department. The spokesman said that Seals had also had four years of experience with the Louisiana State Police.

Another Treasury agent in the raid, Joseph T. Long, had been with the department for four months, the spokesman said, but had previously worked for more than three years with Fairfax County police and the Naval Investigation Service.

At Gleason's press conference yesterday, Watkins said he was not aware of the experience levels of the federal officers. "On my own force, I would not want to have trainees at the critical points in a raid," he said.

Last week, Gleason concluded his own investigation of the incident by announcing that he had found nothing improper regarding the police procedures used in the raid.

His defense of the raid prompted editorial criticism in Washington newspapers and also by television commentator James J. Kilpatrick, a conservative who said he usually supports efforts at law and order but took exception in this case.

Yesterday, Gleason responded, by declaring, "Anybody can be a Monday morning quarterback, and I think that's what's happening in the editorials. It doesn't make me feel good. What would you have us change?"

He said press accounts "constantly ignore the circumstances," including the number of weapons in Ballew's apartment and vandalism and shootings in Quebec Terrace.

Asked whether the weapons in the apartment might have been used to start a riot, Gleason replied: "If he (Ballew) had a military installation inside his apartment, it does not justify an illegal raid." But he said he found the raid was valid.

In the raid, the Treasury agents and police used a battering ram to knock down the Ballew's door and forced their way into the apartment. Ballew was apparently in the bathtub at the time, and his wife was wearing only underpants. Ballew, who was a gun collector, grabbed an antique pistol and headed toward the agents, but was shot in the head. Whether he shot at police is in dispute.

Bonner said yesterday that Ballew's condition has improved to "good" but that he remains in the hospital with the bullet still lodged in his brain. Doctors have been afraid to operate.

The Treasury agents and police found hand grenades in the apartment, but upon testing they turned out to be dummies.

[From the Washington Post, Aug. 3, 1971]

TREASURY CRITICAL OF GUN RAID

(By Jim Mann)

Secretary of the Treasury John B. Connally announced yesterday that his department had found "administrative and supervisory deficiencies" in the raid June 7 by Treasury agents and police in which Silver Spring gun collector Kenyon F. Ballew was shot in the head.

However, Connally said that the raid was "legally proper under the circumstances."

The deficiencies involve record-keeping, execution of search warrants and control over local procedures, Connally said.

Connally's statement and an accompanying 31-page report were the first official comment by the Treasury Department on the raid, which has provoked angry criticism from firearms interests throughout the country and has produced an unlikely alliance

between firearms groups and civil libertarians protesting the police procedures.

The Treasury Department also revealed in the report that it has recommended Ballew be prosecuted "should his physical condition permit."

The Treasury report provides the following account of the events leading up to the shooting:

A team of three agents from the Alcohol, Tobacco and Firearms Division and three Montgomery County policemen went to Ballew's door. Only one of them, Montgomery policeman Harold Kramer, was in uniform.

The three ATFD agents—Marcus J. Davis, supervisor of the raid, Seals and Donald R. Sloan wore "dress street clothes," either suit coats or shirts and ties, with identifying badges attached.

The two other Montgomery officers besides Kramer—Royce Hibbs and Louis Ciamillo—were less formally dressed. Hibbs wore a yellow sweatshirt and light grey slacks, while Ciamillo wore a short-sleeved red-and-green horizontally striped polo shirt with dungarees.

They heard "either scuffling inside or a voice saying something they could not understand," and then they decided to batter down the door.

However, another policeman stationed at the other door to the Ballews' apartment—apart from the six officers with the battering ram—heard a woman's voice inside the apartment shout, "Who are you . . . They are breaking in and how do I know you're police?"

Kramer, in uniform, was the man at the front end of the battering ram, "nearest to the door where he could be seen and one of the first to enter."

But when the door opened after six blows of the battering ram, Kramer forced the door open further with his foot and Seals, wearing street clothes, entered first.

Nine shots were fired inside the apartment: one by Ballew, two by Seals and three each by Ciamillo and Hibbs.

The Montgomery County government has already conducted its own investigation of the Ballew case, by Elisha Freedman, chief administrative officer, and released last month by County Executive James P. Gleason.

That report exonerated the county police department and found that all procedures used in the raid were correct. * * *

The Department said Ballew should be prosecuted under the 1968 federal Gun Control Act for possession of illegal hand grenades and sawed-off shotguns. Ballew has been hospitalized since the raid with a bullet in his brain according to his attorney.

Although Ballew's attorney, John F. Bonner, has said that four hand grenades found in Ballew's apartment were inert, the Treasury report says three of them could have been activated with the addition of powder, and therefore constitute "destructive devices" prohibited under the 1968 law, according to government counsel.

In the June 7 raid, Treasury agents and Montgomery County police went to Ballew's apartment at 1014 Quebec Ter. in a low-income housing complex, with a federal warrant to search for illegal hand grenades.

The Treasury agents said their information regarding the hand grenades was based on confidential informants they have never identified.

Bonner says there was only one informant, a 17-year-old juvenile picked up on housebreaking charges.

By all accounts, the agents and police used a battering ram to enter the Ballews' apartment, and the first agents to enter the apartment were dressed in plainclothes. Ballew was nude and his wife dressed only in underpants when they entered.

Criticism of the raid has centered on the adequacy of the information obtained by agents and police; the propriety of using plainclothes police and the necessity for entering the Ballews' apartment by force.

Ballew's wife said after the raid that she thought the law enforcement agents were "racketeers" or "hippies."

The report released by Connally yesterday does not describe at length what it means by administrative and supervisory deficiencies." But the report alludes to the following problems:

At the same time as the events in the Ballew apartment, four Treasury agents and six policemen—only one of the 10 being in uniform—raided an apartment upstairs in the same building, knocking down the door with a battering ram and finding only three small children inside.

According to the Treasury report, it turned out that the agents and police had the wrong apartment number. A search warrant for illegal weapons in the home of James R. Thomas listed Thomas's home as apartment 102, when in fact he lived in apartment 103.

Treasury says the error "resulted from inaccurate police information and records."

The Ballews live downstairs in apartment 2.

While the Ballew apartment and the one upstairs were raided, two area supervisors for Treasury's Alcohol, Tobacco and Firearms Division—the ranking officials in the raid—sat outside in a government car 40 to 50 feet behind the building. The Treasury report says this amounted to "questionable supervisory control," and says tighter control will be maintained in the future.

The Treasury investigation found that before the preparation of the search warrants and accompanying affidavits, there were "no files or formal documentation" in the Ballew and Thomas cases kept by the local office of the Treasury agents in Falls Church.

The Treasury report says this finding does not affect the validity of the warrants, but points out "administrative deficiencies," which Treasury is ordering be corrected.

The Treasury report says the federal agents should have maintained "tighter control" on the removal of property by Montgomery County police, besides the grenades, powder and rifle barrels taken as evidence of possible federal violations under the authority of the federal search warrant.

Montgomery County police removed Ballew's entire gun collection, including 26 cap-and-ball pistols, shotguns, rifles and flintlock rifles. Sixteen of the weapons were loaded, according to the Treasury report.

Mrs. Ballew has said the police also removed an accordion, a clock radio, and a sewing machine from the apartment. The Treasury report does not mention these items.

Montgomery County officials have said items were removed from the apartment for "safekeeping" after the door had been battered down. Yesterday, Bonner, the Ballews' attorney, specu'ated that the police may have been searching for evidence with which to charge Ballew with receiving stolen goods.

The description of these deficiencies occupies only a small part of the Treasury report, which justifies most of the other actions of its agents.

For example, the report says its agents were told by police that there was information the Ballew apartment might be "booby-trapped," and that the occupants might shoot at the police.

In another section, the report says its agent had "received information that the outside door may have been rigged with a shotgun to go off when the door was opened."

The report does not say where the police received this information and does not claim that its agents found any such booby traps inside the apartment.

The report said that despite the Treasury investigation, "the exact order shots were fired, at which point Ballew fired his weapon and who fired the shot that hit Ballew, have not been determined."

Nevertheless, the report says Treasury agents and police were justified in firing at Ballew, because of the "potential danger" to the life of agent William H. Seals, the first to enter the Ballew apartment.

[From The Washington Post, Aug. 7, 1971]

THE SHOOTING OF KENYON BALLEW

A man lying for two months in a hospital bed, semi-paralyzed, incapable of speech and with a bullet in his brain is a personal tragedy but not necessarily a national issue. And so it may well be possible to read too much into the case of Kenyon F. Ballew. But because U.S. Treasury Department agents joined Montgomery County police in the raid on the Ballew apartment in Silver Spring last June 7, the federal government and, by implication, the Nixon administration, became a part of what might otherwise have been a routine raid and a part of the controversy over the methods and the manner of carrying it out. Not only have county authorities and a grand jury reported on the incident, but the Treasury Department and Secretary Connally have both weighed in with their judgments. So have Mrs. Ballew, who bitterly disputes the police version of events, and her husband's attorney, Mr. John F. Bonner, who has put down the Treasury report as a "complete whitewash."

Under the circumstances it is difficult even now to reconstruct the raid with certainty; although nine shots were fired inside the apartment (only one of them by Mr. Ballew) not even the police and the Treasury men agree on who fired first, and one account has it that Mr. Ballew's pistol discharged accidentally after he was hit. But the bare facts, not in dispute, are enough for our purpose, which is simply to try to find some humanity and some sense in this affair, to reconcile the performance of the law enforcers with the real threat to law and order presented by the Ballews.

The first fact, beyond any questioning, is that Mr. Ballew had an extraordinary collection of guns, hand grenades and other explosive weapons. And there is reason to think that he had assembled some part of his arsenal for practical purposes; the multiple locks on his front door confirmed his and his wife's anxiety about the security of the neighborhood. So it was not surprising, whether justified or not, that the Ballews should react with alarm and suspicion to any suspected intruder. And the commando force of police and Treasury agents which appeared at the Ballew back door was not such as to set one's mind at ease. Although armed with a search warrant, the T-men were in mufti and some of the police, sporting sideburns and mustaches, were dressed in shirts and dungarees; to Mrs. Ballew they looked like "racketeers" or "hippies" and while they observed the formalities of a command to open up, they waited no more than a minute before addressing themselves to the door with a battering ram.

For their part, Mr. Ballew was in the bathtub and his wife had on only underpants; neither, in other words, was in a position, let alone of a mind, to rush to the door. Whether either one clearly heard the shouted identification of the authorities through the door is uncertain in any case; so Mr. Ballew went for the nearest of his guns. Perhaps he shouldn't have—it is hard to say. What is clear is that the raid was conducted largely on a tip from an unidentified informant whose reliability can only be attested to by the police and that it was carried out in a manner almost *calculated* to

terrorize and thus to increase enormously the opportunity for mishap.

Or so it seems to us. Montgomery County Executive James Gleason saw it "otherwise"; he couldn't think of "anything that could have been done differently." The grand jury did find some fault with the "search and seizure" procedures employed and recommended some specific tightening up. And the Treasury Department's report, somewhat more dispassionate, pointed out the "several administrative and supervisory deficiencies" in the conduct of the raid and promised to correct them.

But Secretary Connally stoutly defended the raid as "legally proper under the circumstances" and the department, as if to back up the judgment that led it to act in the first place, was at pains to itemize the weapons haul from the raid and to report its recommendation that Mr. Ballew be prosecuted "should his physical condition permit."

Well, the doctors are not very optimistic on that last count; the odds are that Kenyon Ballew will not go to court—or to jail. The odds are, in fact, that he will be lucky to recover from the paralysis that now very nearly immobilizes him. Meanwhile, the medical bills have piled up to more than $10,000 and though his Pressmen's Union will pay up to $20,000, its resources are hardly limitless—and there is no end in sight.

But it was all "legally proper" and that is all that seems to matter to this administration, whether it is the Vietnam Veterans' right to camp on the Capitol grounds, or the holding of war protesters without charges, or the welfare entitlement of the poor, or the busing of black schoolchildren, or a paralyzed 28-year-old gun buff who was a little slow answering the door.

[From the Washington Post, June 9, 1971]

RAIDERS' LOOKS BLAMED IN GUN BATTLE

(By LaBarbara Bowman)

A Silver Spring gun collector opened fire on Montgomery County police and U.S. Treasury agents when they entered his apartment in a raid Monday night because they were out of uniform and bearded, his wife said yesterday.

Kenyon F. Ballew, 27, of 1014 Quebec Ter., was shot once in the head during the gun battle with the raiding party and was reported to be in critical condition yesterday at Washington Sanitarium and Hospital.

Montgomery County police confirmed that the two policemen who fired at Ballew were dressed in casual clothes and had moustaches and beards. They said the officers were members of the tactical squad and customarily work in civilian clothes.

County police said they were helping Internal Revenue Service agents execute a search warrant that alleged there were unregistered firearms and hand grenades in the apartment, and that police fired only after they had been fired at. Ballew's wife, Saraluise, said police fired first.

Mrs. Ballew, interviewed as she waited outside the hospital's intensive care unit yesterday, said her husband was in the bathtub in their two-bedroom apartment Monday night about 8 p.m. when she heard "a violent beating" at the door. She said she was clad only in her underpants and asked, "Who is it?" rather than immediately opening the door. The response, she said, was "unintelligible" shouts and banging, and demands to "open up."

"Then I yelled, 'Where is the gun Kenny? They are breaking in here,'" she said. She said her husband has a large collection of pistols and rifles, in addition to various knives, hatchets and spears kept in the apartment.

Mrs. Ballew said she ran into the bedroom and grabbed a .36-caliber pistol from among the collection of weapons hanging on the walls. Her husband, she said, jumped out of the bathtub and seized an antique "cap and ball" pistol.

She said she looked out the bedroom door and saw that the men who had entered the apartment were dressed in sweatshirts—one lemon yellow and one striped—and had beards. She said she thought they were "racketeers" or "hippies."

"I screamed, 'He's got a gun' and I heard two shots," she said. Her husband began to slump and "his gun went off with a flash of light." There was blood on his head.

"I started yelling, 'Help, murder, police,' and this man screamed from the living room, 'We are the police.' 'Then what in the hell are you shooting for?'" she said she asked them.

About 20 men then swarmed into the apartment, she said. Some were uniformed Montgomery County policemen and others identified themselves as Treasury agents, she said.

Mrs. Ballew said that a Treasury agent, whose name she did not recall advised her that she had a right to remain silent and told her they were "looking for grenades."

Mrs. Ballew said her husband, a "flyman" or plate carrier in the pressrooms of The Washington Post and The Evening Star, has an arms collection that includes five .44-caliber pistols, four .36-caliber pistols, nine shotguns and rifles, and assorted other guns. She called her husband "a gun buff."

He also has five "dummy" grenades that he has had since he was 15 years old, she said.

To a visitor yesterday, the Ballews' basement apartment, consisting of two bedrooms, a kitchen and a living room, testified to his hobbies. The walls of one room were lined with spears, tomahawks, hatchets, swords, powder horns and a single bayonet. The stars and bars of the Confederacy hung from the far wall, the carpet was stained with blood.

In the living room, animal horns hung from the walls. Nine aquariums stood around the walls with tropical fish swimming placidly within them. At least one aquarium lay smashed on the floor.

Furniture and clothing lay scattered over all the rooms except in the kitchen. In the bedroom, only a corner of the bed peeked out from beneath layers of clothing, furniture and books.

The entire apartment appeared as if it had been lifted, shaken and placed on its side. Only the National Rifle Association and Boy Scout decals on the front door seemed to be in their proper places. Mrs. Ballew said her husband was a life member of the NRA and had been active in Boy Scout work in Prince George's County, where he previously lived.

A spokesman for the police said the officers broke into the apartment to execute a search warrant that Special Investigator Marcus J. Davis, of the Alcohol, Tobacco and Firearms division of the Internal Revenue Service had obtained earlier Monday from F. Archie Meatyard, U.S. Magistrate for Montgomery County.

A copy of the warrant was shown to reporters yesterday by Elizabeth Allen, Mrs. Ballew's mother, at the apartment. Under the heading "United States of America vs. Apartment No. 2, located in the building at 1014 Quebec Terr.," it stated:

"There is now being concealed certain property, namely hand grenades which are not registered," as required by the National Firearms Registration Act.

The officers serving the warrant, the police spokesman said, identified themselves and "received no response from within." Once inside, "they were fired upon by the occupant," the police statement said, and three officers—two county policemen and an IRS agent "returned the fire." They fired eight times, the statement said.

None of the officers was hit.

The police spokesman confirmed that the officers were out of uniform. The two Montgomery policemen, Louis Ciamillo and Royce Hibbs, were dressed in "scruffy" clothing because of the nature of their assignments, the statement said.

The statement added that the officers were wearing black armbands with the insignia of the county police to identify themselves.

Mrs. Ballew said she did not know the men in sweatshirts were police officers until she saw them at the police station and noticed their arm bands for the first time. "It would never have happened if they'd been in uniform," she said.

The police refused to say how many firearms they had confiscated. They said that other items besides firearms were taken, but would not elaborate.

Mrs. Ballew said she saw an accordion and a battery-operated radio that belonged to her and her husband at the police station. Mrs. Allen showed reporters a sheet of paper, purportedly signed by agent Davis, that listed only four grenades as having been seized.

Meatyard said he had also issued a search warrant Monday for the apartment upstairs from the Ballews' and that violations of the firearms act were also alleged in that case. He said he could not remember what division of the government the agents requesting the warrant represented.

Jacqueline Moore, who lives upstairs in Apartment 102 with her mother, sister and child, said a uniformed Montgomery County police officer came to their door, minutes before going to the Ballew apartment, to ask where "the Buchanans" lived.

Mrs. Moore said her sister, who answered the door, told the officer the couple lived below them, Mrs. Moore said she was standing behind her sister and saw other men, some in uniform and others in suits, coming down the steps from the second floor. They did not enter the Moore apartment, she said.

Before her sister could reach the door, she said, the officer hit it, apparently with the butt of his gun, and left a dent in the light green metal door, she said, pointing to the mark.

No charges have been placed against Ballew, police said. Whether any will be placed later "depends on his recovery," they said.

[From the Washington Post, Aug. 6, 1971]

CASE AGAINST NO-KNOCK

(By William Raspberry)

The Kenyon Ballew tragedy, which might have provided the occasion for a hard look at a number of questionable police practices, has been instead the springboard for near-criminal silliness from high places.

The agreed-upon facts are that the Silver Spring home of Ballew, a 28-year-old gun collector, was raided by Montgomery County and federal agents acting on a tip that Ballew was keeping illegal hand grenades there.

The raiding party, except for one officer (who was not among the first to enter the premises) were in civilian clothes. They broke through the back door of the Ballew apartment with a battering ram, and Ballew, nude at the time, grabbed an antique pistol to defend himself.

The officers fired eight shots, one of which is still lodged in Ballew's head. (He has remained in the hospital, paralyzed and unable to speak.) Ballew himself fired one shot, and there is some evidence that that one shot was fired after he was already wounded.

That is the tragedy. Here is the silliness:

Montgomery County Executive James P. Gleason issued a report that there was

nothing "improper" about the police actions in the raid.

Treasury Secretary John B. Connally (the federal officers were Treasury agents) said that the raid involved "administrative and supervisory deficiencies" but that it was "legally proper."

A Montgomery County grand jury issued a report but declined to indict either Ballew or the men who shot at him.

A fair summation of the three reports is: (1) It's too bad that Ballew was shot, (2) the police informer (allegedly a juvenile housebreaking suspect) gave them bad information, and (3) nobody, neither police nor the victim, did anything wrong.

Well, it wasn't an accident. So how can Ballew be lying there near death with a bullet in his head if nobody did anything wrong?

What it comes down to is official reluctance to acknowledge that police officers, and federal agents can make tragic mistakes. Bad for morale, you know.

That's silly, too, and worse. Are citizens supposed to have such confidence in their law-enforcement officials that they will overlook official whitewashing of their most grievous errors? No one supposes for a moment that a grand jury would not have returned an indictment if it had been a sweatshirt-clad cop who took a bullet in the head.

Even the most open-minded investigation won't help Ballew's health, of course, but it might have helped police credibility if there had been some indication that they were rethinking their raid procedures instead of pretending that nothing wrong really happened.

It would seem obvious, for instance, that some member of Congress would use the impetus provided by the Ballew case to introduce legislation to repeal the no-knock section of the D.C. crime act.

Someone, it seems, might want to raise questions about the logic of using plainclothesmen in raids of this sort. However frightened Ballew might have been, he might not have tried to shoot if the first men to enter his apartment had been in police uniform.

The raiders insist that they announced themselves as police officers, but acknowledge that they couldn't make out what Mrs. Ballew said in response. (If they had trouble understanding her, isn't it reasonable that she might have had trouble understanding them?)

But even to settle the question of whether the announcement was made and understood is not to settle the more troubling question: Does it make sense to open up to any gang of casually dressed tough guys who say they are cops?

People do lie occasionally, and that includes housebreakers and robbers.

It will rub some tough-guy cops the wrong way, but what's wrong (at least in cases involving contraband that is not easily disposed of) with surrounding the premises and phoning the suspect to say the police are on the way? Or for that matter, what's wrong with giving a suspect time to phone police headquarters to make sure the raid is legitimate?

There may be times when busting in is the only reasonable thing to do. June 7 in Silver Spring wasn't one of them.

Mr. PERCY. Mr. President, first, I commend the distinguished Senator from North Carolina and the distinguished Senator from Wisconsin for their leadership in this field. I have greatly enjoyed working with the chairman of the Committee on Government Operations on many matters, but there is no matter I feel more deeply about, that I feel will have more profound influence on law and order and the protection of individual privacy than the pending measure.

Mr. President, I fully support S. 3355 and I plan to vote for it. My major interest at this time, however, is amendment No. 1487 to this bill which would repeal the Federal and District of Columbia no-knock statutes. These statutes were enacted at a time when legitimate concerns about law and order were allowed to overwhelm the interest in preserving the fundamental rights of individual citizens. To many the positive purposes of the Comprehensive Drug Abuse Prevention and Control Act, which contains the Federal no-knock authority, were of overriding importance. But the dangers and abuses that were predicted by some Senators during the debate on that bill have unhappily come to pass over the past few years. Mistaken drug raids by Federal officers have unfortunately taken place across the country with an alarming frequency. Narcotics agents have sometimes used police-state tactics in making unannounced and unlawful entries into dwellings of decent, law-abiding citizens.

The widely publicized mistaken drug raids that occurred in Collinsville, Ill., in April 1973, represent perhaps the most notorious example of this official lawlessness. On the evening of April 23, teams of Federal and local narcotics officers raided the homes of the Herbert Giglottos and the Donald Askews. Unidentified and unannounced, the drug agents entered these homes in commando-raid fashion with weapons drawn. Both families looked on in terror as the agents made a futile search for supposedly large caches of illicit drugs. Only after the officers were completely satisfied that no drugs were to be found at these addresses did they realize that they had raided the wrong homes. At this point the agents simply departed into the night.

I imagine I have never heard more compelling and profound testimony regarding an incident so deeply felt by the witnesses than the testimony that was given before the Senator from Georgia (Mr. NUNN) and me in Chicago before the subcommittee when we held hearings on these particular incidents in connection with the drug abuse bill.

Certainly, the profound impact of those witnesses and others has been felt by many people. We have been flooded with hundreds of instances across the country similar to that incident. We hear it said that it cannot happen here, but certainly for those families and those people, who also felt it could never happen in America, it did happen and it happened in the name of law and order.

Such incidents have not been uncommon. They have occurred all over the Nation. Some have involved death and serious personal injury to dedicated officers and innocent home dwellers. Too often, even well meaning agents dispensed with the warrant requirements of the Federal no-knock statute for reasons of convenience. Sometimes they altered the addresses on the warrant rather than obtain a new one as the law requires.

In reaction to this rash of mistaken drug raids, the Drug Enforcement Administration, as well as the District of Columbia Police Department, have unilaterally decided to virtually read the no-knock provisions out of the law. During the past year Federal narcotics agents have executed a no-knock warrant on only one occasion. In the District of Columbia the Police Department has not conducted a no-knock raid in over 2½ years. These statistics hardly indicate that the forces of law and order will suffer a crippling blow if the no-knock statutes are repealed.

In fact, the provisions have been made inoperative by the Federal law enforcement officials and by the District of Columbia Police, primarily because they have had no effect in law enforcement that can be discerned and measured and also due to the fact it unnecessarily endangers the law enforcement officials who seek to enforce the law.

But beyond the statistics and arguments over constitutional and statutory niceties lies a more important reason why this authority should be removed: It was and remains a symbol that our Nation would condone short-cut methods when dealing with basic constitutional rights. In short, it became an invitation to official lawlessness. Only public awareness of the problem has made Federal and District of Columbia law enforcement authorities sensitive to the unconstitutional and reckless conduct of a small minority of their subordinates.

I particularly wish to commend Police Chief Wilson of the District of Columbia for his careful scrutiny of this matter since the provision was enacted. He indicated it would not be invoked without his personal surveillance, and as a result of his personal experience he has seen fit to make these laws inoperative in the District of Columbia in the last 24 months.

Now is the time for us to reaffirm our faith in the constitutional safeguards that are embodied in the fourth amendment. Now is the time for us to recognize once again that all Government power is limited so that even the most landable of goals cannot be pursued by unconstitutional means. The rights of the many are to be protected against the excesses of the few. Now is also the time for us to realize that if allowed to spread, a callous disregard for the rights of some citizens in the name of law and order could risk a severe public backlash against strict law enforcement. Justice William Brennan stated this argument well in *Miller* v. *United States*, 357 U.S. 301 at 313 (1958):

> We are duly mindful of the reliance that society must place for achieving law and order upon the enforcing agencies of the criminal law. But insistence on observance by law enforcement officers of traditional fair procedural requirements is, from the long point of view, best calculated to contribute to that end. However much in a particular case insistence upon such rules may appear as a technicality that inures to the benefit of a guilty person, the history of the criminal law proves that tolerance of short-cut methods in law enforcement impairs its enduring effectiveness.

I would like to note in closing that on June 7, 1974, I introduced a bill, S. 3603, to repeal the Federal and District of Columbia no-knock statutes. This bill was designed to do more than merely repeal now existing statutory authority. It makes clear by amending section 3109 of title 18 of the United States Code that in the future Federal officers must in all cases identify themselves and announce their purpose and authority before they can enter and search a private dwelling. While I would prefer the more all-encompassing approach adopted in S. 3603, I wholeheartedly support and recommend the passage of this no-knock repealer amendment.

Mr. COOK. Mr. President, being the manager of S. 3355 on this side of the aisle, I find myself in the position of being 1 of the 20 Senators who supported the amendment of my distinguished colleague from North Carolina on October 7, 1970, which would have eliminated no-knock provisions from the bill at that time. Therefore, whatever controlling time there may be in opposition to the amendment—because I will vote in favor of the proposed amendment by the Senator from North Carolina—I will yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I thank the Senator from Kentucky. I want to say that I respect the Senator for his frank statement to the effect that he is in favor of the pending amendment.

Mr. President, before I commence discussion of the amendment proper, I should like to make a general statement on the bill itself.

Mr. President, S. 3355 was reported from the Committee on the Judiciary on June 12, 1974. This bill passed the Senate on June 17, 1974, by voice vote. This action, however, was later vitiated when it became apparent that some of my colleagues wished to offer amendments. I understand that we are now prepared to take up this measure and the amendments that may possibly be offered to it.

The purpose of S. 3355, introduced by my distinguished colleagues, Senators COOK and BAYH, is to provide authorization for appropriations to the Drug Enforcement Administration. The existing authorization for this agency expired at the end of fiscal 1974.

As reported from the Committee on the Judiciary, S. 3355 would authorize appropriations for a period of 5 years in the following amounts: $125,000,000 for fiscal 1975, $150,000,000 for fiscal 1976, $175,000,000 for fiscal 1977, $200,000,000 for fiscal 1978, and $225,000,000 for fiscal 1979.

As introduced, this measure would have provided for an open-end authorization. The Judiciary Committee, however, adopted the view that this agency's effort could best be sustained with a continuing oversight of Congress and determined that a 5-year period was appropriate for this purpose.

S. 3355 seeks to amend the Controlled Substances Act of 1970, Public Law 91-513. This law was designed to improve Federal efforts toward the elimination of illegal drug traffic and reduction of drug-related crime.

For several years, the primary enforcement role was under the aegis of the Bureau of Narcotics and Dangerous Drugs (BNDD) within the Department of Justice.

Reorganization plan No. 2 of 1973 expanded substantially the role of BNDD. The plan was designed to place primary responsibility for Federal drug law enforcement in a single, new agency, the Drug Enforcement Administration (DEA), in the Department of Justice.

At that time, 10 Federal agencies in five Cabinet departments performed drug enforcement functions. Budgeting for these agencies in fiscal year 1974 was proposed at $257 million, a sevenfold increase in funding from $36 million in fiscal year 1969. Several other agencies had related functions. There was no overall coordination.

Implementation of the plan provided DEA with the 3,000 employees from the three Justice Department agencies and 500 special agents from the Customs Bureau of Treasury.

Establishment of the Drug Enforcement Administration will help to eliminate many of the institutional problems that have frustrated efforts to develop a truly flexible, enlightened national drug law enforcement strategy. In seeking ways to further intensify the country's counteroffensive against drug abuse, it is expected that funding requirements for this effort will substantially increase in future years.

Study and impressive progress has been made in reducing the dimensions of drug problems. It is anticipated that the Drug Enforcement Administration will aim its manpower at responding to the polydrug epidemic by further penetration of illicit traffic in narcotics and nonnarcotic drugs and by increasing regulatory activity at all levels. These efforts should complement other high priority Federal programs of drug abuse, prevention, treatment, and rehabilitation.

S. 3355 seeks to provide appropriations authority for only those responsibilities imposed on the Department of Justice by the Controlled Substances Act of 1970 exclusive of section 103 of the act. The activities within the purview of this bill are those relating primarily to domestic drug law enforcement, the elimination of diversion, and the regulation of the legitimate commerce in drugs. This measure will provide the needed flexibility to allow continued growth in the regulatory domestic enforcement, and other specific areas within the Controlled Substances Act while meeting uncontrollable periodic increases in budgetary matters.

This bill, however, will not serve as authorization for all of the programs operated by the Drug Enforcement Administration. Part of this agency's support functions, its operations in foreign countries, its national intelligence system, and its research activities are provided separate authorization elsewhere and, therefore, fall outside the scope of this bill.

Since this agency is now operating without its necessary authorization, I strongly recommend the speedy passage of S. 3355 to my colleagues.

Mr. President, I come now to a consideration of the pending amendment. Members of this body, and anybody else who might want to be informed on the subject, Mr. President, will look in vain in the hearings and report on this bill for any reference whatsoever to the subject matter of the pending amendment. There is no such reference. No discussion occurred on the no-knock provisions of the District of Columbia Criminal Code, or on the Controlled Substance Act, which can be found at 21 U.S.C. 879. There was no discussion on the pending amendment. Indeed, there was no proposal of any such amendment at the time the committee considered S. 3355.

There was a total void, Mr. President, until 2 or 3 weeks ago, prior to our Fourth of July recess, when there was filed the amendment we are now considering.

Mr. President, there are no committee hearings, counsel, or guidance to which the Members of this body may resort. There is no history to be found, except in the remarks made on the floor here in somewhat unorganized fashion—fine remarks in their own way, but they do not contain the elements of the continuity, the history, the experience, and the impact of the relevant sections of the District of Columbia Code and the Controlled Substance Act which this amendment seeks to repeal.

There was no inquiry, insofar as the Judiciary Committee was concerned or our subcommittee, as to the regulations which are used by the Drug Enforcement Administration, nor of the instances of malfeasance which may have occurred during the existence under the no-knock warrant provisions of the District of Columbia Criminal Code and of the Controlled Substance Act.

This amendment, Mr. President, the so-called Ervin-Nelson amendment, is far reaching. It reaches into many more areas than merely the arrests and seizures of contraband narcotics or dangerous substances. In fact, title 18, section 3019—the statute that would apply if the no-knock provisions are repealed—applies to all Federal officers who are called upon to execute search warrants.

It will be recalled, Mr. President, that in 1960 and 1970 there was a great revision, modernization, and improvement of the criminal code in the District of Columbia, as a result of the prodigious amount of work and study which the then Senator from Maryland, Senator Joseph Tydings, devoted to that subject.

In addition to deleting the well-considered and substantially improved provisions in the District of Columbia Criminal Code on the no-knock provisions, the pending amendment will repeal 21 United States Code 879, the Controlled Substances Act.

So the subject is not one that is limited to a narrow field of raids for narcotics and dangerous substances. It extends over the entire spectrum of arrest and seizure, and the search and seizure warrants which may be utilized by Federal law enforcement officers.

It is a complicated subject, and it is deserving—and the Senate is deserving—

of having a regular processing of that bill, with hearings which consider the merits of no-knock in all its history, ramifications, implications, and potential. But we do not have that.

We should proceed to debate an amendment of this nature only after the Members of this body have been furnished with an up-to-date inventory of what has occurred under the 1970 enactments. If we are to legislate on this matter, we should do so on the basis of a complete, informative record. This we do not have.

The Ervin-Nelson amendment to repeal the no-knock warrant statutes should be defeated at this time. This subject should be deferred for regular, routine processing, so that we may all be fully informed as to what really is involved. Shortly, I shall enumerate a number of reasons why I oppose this amendment. Before doing that, however, I should like to state clearly what the real issue is here.

We have just heard from the Senator from Illinois. He would have us believe that if we adopt this amendment and thereby repeal all the no-knock sections of the District of Columbia Criminal Code and of the Controlled Substances Act, there will be no more no-knock seizures or no-knock arrests. That simply is not true. It is not true because no-knock arrests and no-knock seizures had been made before the enactment of these statutory provisions, and they will be made in the future, even if this amendment is adopted. In fact, the sponsors of this amendment admit that the police will still be authorized to enter a home unannounced under the same exigent circumstances that permit entry pursuant to a no-knock warrant under the current provisions of law.

The reason why such unannounced entries will still be authorized is that through the hundreds of years preceding 1974, certain exceptions have developed to the general rule that it is incumbent upon the official holding a search warrant to knock at the door and announce his purpose. Those exceptions have been engrafted on to our common law. The general rule that police must knock before entering prevails, unless there is probable cause, in the judgment of the police officer, that there will be destruction of material evidence, that the suspect will attempt to escape or that there will be peril of bodily harm to the officer or some other person if notice of the officer's authority and purpose had to be given.

No, Mr. President, the issue is not whether law enforcement officers may enter a home unannounced.

The real issue is this: Will such no-knock be solely at the discretion of the police officer or will the officer be required to submit the decision whether to enter a home unannounced to a neutral magistrate? Will the police officer say to the magistrate, "Your honor, I would like to have issued a no-knock warrant?"

When we come to the matter of protecting a persons' right of privacy, when we consider the matter of protecting the constitutional rights of individual citizens and the prevention of improper invasion of the civil rights of citizens, I cast my lot with a procedure which will require the police officer to appear before a magistrate. The person who should determine whether probable cause exists to justify a no-knock entry should be a neutral magistrate.

I would rest more assured if I knew that the question whether the rights of the individual to privacy should be invaded is left to a detached magistrate than to have that question decided by the police officer in the very few fleeting moments that he has when he arrives at the door and decides that the circumstances warrant his going in there and breaking down the door and seizing either the evidence or the person he finds on the other side of the door.

Mr. President, some rhetoric has been devoted to the famous Collinsville situation. The senior Senator from Illinois described this incident colorfully. I imagine that some of the language could well find its way into a journalistic treatment of the subject.

However, with all due respect, the situation in Collinsville, Illinois, has no relevance whatever to this debate, for a number of reasons. First, there was no warrant in the Collinsville case. The officers who broke down the door in the wrong house and later arrested the man did not obtain a warrant under the no-knock provisions.

But more convincing, however, is the fact that the agents who entered those homes were exonerated of all criminal charges. The Senator from Illinois did not discuss that fact. Indictments were returned against the officers who engaged in that operation. There were approximately 17 counts of illegal invasion of the civil rights of the people in that house. A trial was held in Federal court, and the jury returned a verdict of not guilty.

How that incident can be used to justify repealing the no-knock warrant provisions that now exist in Federal statutes, escapes the understanding of this Senator. We can repeal all these Federal statutes about which we talk. But such a repeal will have no effect on entries at mistaken addresses.

Mr. President, from July 1, 1973, to March 1974, there were more than 4,400 arrests and seizures in the field of narcotics and controlled substances. Collinsville was an unfortunate incident; it was a grave error, a regrettable error. The men had been properly oriented, they had been trained, and so forth; but they made a mistake. But if this is the only incident that can be found out of 4,400 arrests which yielded a tremendous quantity of contraband—narcotics and contraband controlled substances—then all I can say is that these figures represent a pretty good record.

Under the sections of the statute we now have, an officer is required to go to a magistrate, lay his knowledge, his information, and his belief before the magistrate, and say, "I believe there is probable cause why the application of one or another of these common law exemptions should apply. Will you please favor me with a no-knock warrant?"

At that point, a neutral magistrate, sitting in a detached setting, must consider all those facts, and then decide either "Yes" or "No."

Mr. President, I submit that this procedure accords the individual more, not less, protection for the rights of privacy, for the constitutional rights of the citizenry than that which would exist if this amendment were adopted and the requirement of judicial approval removed from the District of Columbia Criminal Code and from the Drug Control Act.

Now, as to the additional reasons why this amendment should be defeated, let me suggest these:

First of all, no-knock searches have long been recognized as a constitutional and important law enforcement tool. I have already referred to the common law exceptions to the rule requiring officers to knock before entering that have developed through the years.

The second point is that at least 39 States of this glorious Union of ours, Mr. President, have no-knock laws either by statute or case law for either searches or for arrests, or for both.

What makes the Federal Government so much different from the States that we would deny ourselves what law enforcement officials declare is a very important tool?

Thirty-nine States use no-knock laws. The Supreme Court has upheld these laws. It has developed case law dealing with the situations that arise from time to time that justify unannounced entries.

The District of Columbia ought to have that kind of protection.

A third reason why the no-knock statute should be retained as it is, is that unannounced searches can save law enforcement officers' lives.

Goodness knows, the toll in that field is much too great now, without the added danger that is encountered where a knock at the door says, "The police are here," or "Open, we are here to arrest you and seize the evidence in your room,"—a long enough warning for the man to get a revolver or rifle or shotgun and hold the officer at bay or shoot him.

These statutory sections can save officers' lives and frequently do.

A requirement that police officers announce their identity and purpose before entering a home of a dangerous offender can in some circumstances jeopardize the life and safety of the officer and sometimes of the other people.

Under the Federal law no-knock warrants have been used sparingly and with discretion. Reference has been made to that fact. And it has been argued that for those mighty few situations we use them we might as well delete these sections and do without them.

It is not quite that simple, Mr. President. When this bill was passed, a review of the debate back in 1970 indicated that this power and this responsibility to use no-knock warrants would be and should be used sparingly, and it has been.

I can readily imagine that if there were thousands of those no-knock warrants issued, then there would be legitimate complaint on the floor of this body

saying the police are abusing it, they are using it indiscriminately, they do not undertake to execute the conscious policy that was adopted during the course of the debate in 1970 that this tool be used sparingly.

Now, let me cite a few statistics. Under the office of Drug Abuse Law Enforcement, from 1972 in April to June 30, 1973, there were 112 authorized and 97 were executed.

In the Bureau of Narcotics and Dangerous Drugs from April 1, 1972 to June 30, 1973, there were three authorized and one was executed.

The Drug Enforcement Administration was authorized two from July 1, 1973 to June 12, 1974, and executed one.

From July 1, 1973 to June 4, 1974, one was authorized and none was executed.

So the mandate of the Congress of the United States to use this authority sparingly and discriminately has been obeyed and implemented. A consideration of the regulations under which the Drug Enforcement Administration must abide in the applying for a no-knock warrant demonstrates that it is the conscious policy of the law enforcement bodies to follow that congressional mandate.

Mr. President, as I just stated, the Bureau of Narcotics and Dangerous Drugs—and its successor agency—the Drug Enforcement Administration—have had six no-knock warrants authorized since the enactment of Public Law 91–513, that is the Comprehensive Drug Abuse Prevention and Control Act. Two of these warrants have been executed.

Mr. President, in both of those instances, serious Federal narcotics offenses were being committed. Weapons were in the possession of those arrested. Under these circumstances, the no-knock warrant not only acted to protect the Federal officers involved, but also served to prevent the destruction of evidence.

So I say again, Mr. President, the Federal law as we have it on the books, which is the subject of attack by the pending amendment, has been used sparingly and with discretion and that is a score in its favor.

Now, the next point I make is that no-knock warrant provisions interpose the magistrate between the police and the door of the accused.

In the judgment of Congress in 1970, the fact was considered to be a wise policy. The debate on those provisions was on the basis of committee hearings and upon the basis of a committee report.

Mr. President, the decision of that Congress should not be upset out of hand by an amendment proposed on the floor which imposes upon the Members of this body the necessity to make a decision, to make a decision without the counsel and guidance that would be afforded by a regular process and prepared report.

Now, another point is this, Mr. President, it is not clear that by repealing the no-knock warrant provision that the Ervin-Nelson amendment will reinstate the common law exceptions to the rule requiring announcement before entering a home.

The Attorney General has stated that such a repeal may not reinstate the common law. It may well be that the courts will so hold. If the no-knock provisions are repealed, 18 United States Code, section 3109, will apply. It specifically provides for only one of several common law exceptions, and if the courts construe that section to allow only the exception specifically stated, then we are deprived, Mr. President, of the other common law exceptions to the general rule.

Mr. President, I earlier suggested that I would refer to the statements of police officers on the effect no-knock warrants. Francis B. Looney, President of the International Association of Chiefs of Police, which has a long tradition as a very constructive force in its field, sent this telegram, which I read:

> The International Association of Chiefs of Police (IACP) strongly urges that you oppose the legislation introduced by Senator Sam J. Ervin, which would repeal the no-knock law for the Metropolitan Police Department of the District of Columbia and Federal law enforcement agencies. The nation's police administrators are convinced that repeal of this valuable law would be of great detriment to the law enforcement function. The 10,800 members of the IACP are convinced that the no-knock law provides valuable assistance to police service without unduly restricting the rights of the individual.

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

Mr. HRUSKA. I am glad to yield.

Mr. ERVIN. The no-knock law of the District of Columbia does not apply in any of the 50 States, does it? I say, the no-knock law in the District of Columbia code does not apply to any of the 50 States of these policemen who belong to the police associations?

Mr. HRUSKA. No, it does not, but they directed the telegram to the question whether "no knock" warrant provisions have as an appeal to not deprive one of their component elements, the utility, whether or not the Police Department of the District of Columbia uses the authority.

Mr. ERVIN. And the members of the other Federal law enforcement agencies, including the Federal narcotics agents, are not members of that police association; so, in effect, the Senator has a recommendation from people about something they have nothing to do with in either respect.

Mr. HRUSKA. I cannot quite agree with the Senator on that. After all, they are speaking on behalf of the concept of no-knock warrants, and that concept they have an interest in because the city of Washington, D.C., is a member of their association, and they are taking care of one of their component parts.

Mr. ERVIN. Well, the Chief of Police of the city of Washington says he does not want it; so he does not agree with the association.

It is like the old saw that nobody can give better advice about raising a child than an old maid. I think they are seeking to advise about something not within their experience.

Mr. HRUSKA. Is the Senator speaking about Chief of Police Jerry Wilson?

Mr. ERVIN. Yes.

Mr. HRUSKA. This is no place to discuss that point, Mr. President. The proper forum for discussing opinions on the utility of no-knock warrants is in a committee room, where the witness can deliver a paper or a statement, and the committee can cross-examine the witnesses to find out what the experiences of some of their collateral law enforcement agencies are, what the experiences are in other cities, and what the literature and the professional thinking is.

That is the point I tried to make a little while ago. That is the way this matter should be dealt with, rather than here on the Senate floor, where we are confronted with a bald statement from Jerry Wilson, a fine Chief of Police, that he does not use and does not need it.

On the contrary, the U.S. attorney in the District of Columbia says they need it, would like to have it, and would regret to see the bill passed, because it would harm their law enforcement activity.

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

Mr. HRUSKA. I yield.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Dennis Thelen, of the staff of the Subcommittee on Criminal Laws and Procedures, be granted the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). Without objection, it is so ordered.

Mr. NELSON. Mr. President, will the Senator from Nebraska yield for a unanimous consent request?

Mr. HRUSKA. I yield.

Mr. NELSON. Mr. President, I ask unanimous consent that Lewis Paper of my staff be allowed the privilege of the floor during the consideration and votes on this measure.

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

Mr. HRUSKA. Now, unfortunately, we have to develop a little record here, Mr. President, because we have had no hearings on this subject in committee; we have no committee report or record to be guided by. So we have to hear a little more testimony.

Here is a telegram from Chief of Police E. M. Davis, of Los Angeles, Calif. He said:

> Loss of the no-knock provision in Federal statutes would be a serious blow to narcotic enforcement and enforcement of other critical crimes. California has had these provisions by case law for decades. Even our very liberal State supreme court has not seen fit to eliminate them. They are vital to the gathering of evidence, officer safety, and the capture of dangerous suspects. I urge you to vigorously oppose any legislation which would eliminate the no-knock provision.

Then I have here a letter from John R. Bartels, Jr., Acting Administrator, Drug Enforcement Administration, which reads:

> After our conversation the other day regarding "no-knock" search warrants, I had occasion to speak to Mr. Frank Rogers, New York's Special Assistant District Attorney in charge of narcotics prosecutions. The New York State law is similar to the Federal law regarding "no-knock" search warrants and it is believed Mr. Rogers has had more "no-knock" search warrant experience than anyone else.

I am enclosing an October 2, 1973 letter from Mr. Rogers regarding "no-knock" search warrants in New York City during 1972. I believe you will find the letter very interesting.

As I related to you, I firmly believe that the "no-knock" search warrant, when used judiciously, is an indispensable aid to law enforcement.

There is a further letter here from the Office of Prosecution, Special Narcotics Courts of New York City, which is signed by Frank J. Rogers, Special Assistant District Attorney assigned to the Special Narcotics Courts. He says:

Regarding your inquiry as to the number of "no knock" Search Warrants obtained by Narcotics Division personnel in New York County for the year 1972, my records indicate that of a total of 305 warrants issued, 170 of these contained the "no knock" clause as authorized by Section 690.35 of the Criminal Procedure Law of the State of New York. All of the 305 applications were affidavits in support of warrants authorizing the seizure of narcotic drugs.

However, even though sub-division 3B of Section 690.35 of the Criminal Procedure Law specifically authorizes "the executing Police Officer to enter premises to be searched without giving notice of his authority and purpose upon the ground that there is reasonable cause to believe that (1) the property sought may be easily and quickly destroyed or disposed of, or (2) the giving of such notice may endanger the life or safety of the executing Police Officer or another person", it was felt that only those applications which were of more than ordinary importance should contain the "no knock" clause. This was so because time and again Police Officers executing search warrants which were obtained after weeks and sometimes months of tireless investigation were frustrated in their efforts to effect an arrest by giving the target time to destroy or dispose of the evidence sought to be seized by "announcing their authority and purpose", before entering.

Not frustrating, but infinitely more dangerous to the Police Officer was the opportunity afforded the target, by forewarning him, thus enabling him to quickly arm himself with a weapon in order to avoid arrest and seizure of incriminating evidence.

One case in point involved the destruction of approximately 28 ounces of cocaine which was flushed down a toilet bowl by the target as the officers endeavored to enter the apartment, with a search warrant, after being refused admittance. It has also been brought to my attention that on numerous occasions, Police Officers who were executing search warrants were met with gunfire by the occupants of the apartment who had been alerted by the fact that Police were entering with a search warrant.

In view of the fact that the drug law recently enacted by the New York State Legislature impose much more stringent penalties on the drug seller, it is natural to assume that the drug sellers will tend to resort to weapons more than ever in order to avoid arrest.

Therefore, I believe that the "no knock" clause in our Criminal Procedure Law does and will afford a certain amount of additional protection to our law enforcement officers.

Mr. President, in addition to that, we have a letter here from the Attorney General, Mr. Saxbe, who responded to an inquiry as to the Department's views. I ask unanimous consent that the letter be printed in the RECORD.

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

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

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: The Department of Justice has been asked to advise you of the Department's position on the proposed amendment to Section 3109, Title 18, U.S. Code, to eliminate statutory authority for the issuance of the so-called "no-knock" search warrants. The Department is opposed to the elimination of the statutory "no-knock" authority.

While it has been suggested that the repeal of 21 U.S.C. 879 will merely reinstate the common law with respect to "no-knock" entry, this may not be the case. The courts may well conclude instead that 18 U.S.C. 3109, the general federal "no-knock" provision, is applicable. That provision permits federal officers to enter without announcement of purpose where necessary to liberate one who is assisting in the execution of the warrant or to break in where entry is refused. It does not permit forced entry in order to prevent the destruction of evidence although this may be the most important basis for "no-knock" entry in drug cases. The common law would permit such entry to avoid destruction of evidence. If 18 U.S.C. 3109 becomes applicable, however, it would limit the common law. One other distinction that might be noted in passing is that 21 U.S.C. 879 limits "no-knock" entry to felony cases while neither 18 U.S.C. 3109 nor the common law contains such a restriction.

The specific statutory "no-knock" authority under federal law is restricted to federal offenses involving controlled drugs and the authority is restricted to federal officers authorized to execute search warrants relating to controlled drugs. Under the statute the only case where "no-knock" authority may be exercised is when the officers have specific authority in the warrant to execute it in such a manner. Further, the authority must be received from a magistrate and then only after a showing that notice of authority and purpose would either lead to the destruction of the evidence sought or place the officers executing the warrant in danger of bodily harm.

There is substantial testimony from state authorities who have used "no-knock" authorization much more frequently that such authority is a great assistance to law enforcement officers seeking to prevent criminal suspects from disposing of evidence. It is also the belief of such authorities that the "no-knock" clause affords a certain amount of additional protection to law enforcement officers by eliminating the opportunity for a criminal suspect to arm himself with a dangerous weapon at the time the arrest is being made.

In July, 1973 the Drug Enforcement Administration issued new policy guidelines which require that the Administrator or his Deputy approve the seeking of all future "no-knock" warrants.

It would be in error to infer from the infrequent use of this authority that the Department does not believe such authority is helpful in its law enforcement activities. Occasions may arise in the future where such authorization will assist the apprehension of criminal suspects and seizure of illegally possessed controlled substances and protect the lives of federal law enforcement agents.

The potential for abuses of this authority is no greater than the potential abuse of all authority vested in federal law enforcement officers. The effective deterrent to abuse is a combination of responsible administration and continuing oversight by the Congress rather than the abolition of the authority itself.

As noted above, in its present form, 21 U.S.C. 879 requires the approval of a neutral magistrate before an officer may enter premises without notice of his authortiy and purpose. This requirement, which goes beyond the common law or other federal statutes, is designed to provide an advance judicial determination of the need for "no-knock" entry. To remove this requirement of judicial approval leaves the entire decision in the hands of the enforcing officer. While we believe the internal checks within the Department of Justice established in 1973 will serve to avoid misuse of the "no-knock" entry authority, we believe that the added check of judicial approval is desirable as a matter of policy, as well as a means of providing public assurances of the protection of privacy through judicial intervention.

Thank you for allowing the Department to express its views on this matter.

Sincerely,

WILLIAM B. SAXBE,
Attorney General.

Mr. HRUSKA. He says:

It would be in error to infer from the infrequent use of this authority that the Department does not believe such authority is helpful in its law enforcement activities. Occasions may arise in the future where such authorization will assist the apprehension of criminal suspects and seizure of illegally possessed controlled substances and protect the lives of federal law enforcement agents.

Then he goes on to make a very significant point:

The potential for abuses of this authority is no greater than the potential abuse of all authority vested in federal law enforcement officers. The effective deterrent to abuse is a combination of responsible administration and continuing oversight by the Congress rather than the abolition of the authority itself.

Finally, the Attorney General concludes with this thought:

In its present form, 21 U.S.C. 879 requires the approval of a neutral magistrate before an officer may enter premises without notice of his authority and purpose. This requirement, which goes beyond the common law or other federal statutes, is designed to provide an advance judicial determination of the need for "no-knock" entry. To remove this requirement of judicial approval leaves the entire decision in the hands of the enforcing officer. While we believe the internal checks within the Department of Justice established in 1973 will serve to avoid misuse of the "no-knock" entry authority, we believe that the added check of judicial approval is desirable as a matter of policy, as well as a means of providing public assurances of the protection of privacy through judicial intervention.

I submit he put that case very modestly because there is a great measure of protection for the rights of privacy of citizens by requiring the police officer to obtain the authority of a neutral magistrate before he enters a home unannounced than to depend upon the instantaneous, almost instantaneous decision whether or not to announce himself that would otherwise have to be made by the police officer.

Mr. President, it is my hope that the Senate will see the merit of this position.

Perhaps, we can join on this issue and reach a well-reasoned result—one that will be a lasting result—if we have hearings, if we compile a record, if we get the guidance of the Judiciary Committee, and then go to work on the basis of that

preparatory work, have a debate and a vote on the issue. Again, I say that if we are to legislate on this matter we should do so on the basis of a record complete with all the facts and thinking on this subject.

It is my hope we will have that opportunity, that we can consider the issue that way.

There is not anyone in this Chamber who is not under the conviction that we should do our utmost in law enforcement as well as in the preservation of individual rights; and, yet, all of us recognize there has to be a balancing. Decisions must be made where to draw this line and sometimes the decisions to be made are quite close.

It is my view that a procedure which requires the intervention of the judiciary is much more to the advantage of law enforcement and to the rights of citizens than the procedure envisioned by this amendment.

Mr. President, I fear that the amendment offered by the senior Senator from North Carolina (Mr. ERVIN) and the junior Senator from Wisconsin (Mr. NELSON) strikes a blow against one of the most fundamental rights of the individual—the right to be secure in one's home.

It removes the requirement that a neutral magistrate approve an unannounced entry before an officer enters a home without notice of his authority and purpose. By removing the requirement of judicial approval, this amendment leaves the entire decision in the hands of the enforcing officer.

It is important at the outset to set forth what is and what is not at issue here.

First, what is not at issue is the question whether law enforcement officers should be authorized to enter a home unannounced. Law enforcement officers have been authorized by law to enter homes without knocking since before the time of the Revolution. In fact, the distinguished proponents of this amendment admit that there are common law exceptions to the rule requiring law enforcement officers to announce their identity and purpose before entering. The exceptions Senators ERVIN and NELSON cite include "the destruction of material evidence, a suspect's attempted escape, and the peril of bodily harm to someone inside the house to be searched." No, Mr. President, the issue is not whether law enforcement officers should be authorized to enter a home unannounced.

Instead, the issue is whether a court should be authorized to issue a no-knock warrant where the exigent circumstances that call into play the exceptions to the announcement rule are known before the police arrive at the scene.

Mr. President, I believe that a court should be authorized to issue no-knock warrants. Contrary to the assertions of the sponsors of this amendment, the no-knock warrant provisions offer more, not less, of a safeguard in securing the individual's right to privacy. These provisions interpose the magistrate between the police and the door of the accused. If, in advance, the police know or believe they know that an accused is dangerous and will likely open fire on sight or that evidence will be destroyed, they can go to a magistrate to secure a no-knock warrant. If the magistrate is not convinced that there is probable cause to support a no-knock warrant, none will be issued. Just as a magistrate protects the individual's fourth amendment right against unlawful no-knock entries by when he rules on search warrants, he protects the individual's right to privacy against unlawful no-knock entries by ruling on no-knock warrants.

Furthermore, by authorizing the courts to determine whether there is probable cause to enter unannounced, the police are not put in the difficult position of canvassing the law at the scene to determine whether an unannounced entry is lawful. It cannot be denied that the courts, sitting as they do in a setting detached from the scene, are correct more times than the police on the premises in deciding whether probable cause exists for a no-knock entry. Thus, by interposing the courts between the police and the accused, a no-knock warrant provision makes it more certain that an arrest and/or search will not be thwarted by a motion to dismiss or to suppress the evidence.

But what would this amendment do? It would repeal the authority of a magistrate to rule whether the police have the authority to enter unannounced. Yet, at the same time, it purports to allow the police to enter a home unannounced if the police, on their own motion, decide that it is necessary to enter without knocking.

In short, instead of allowing a detached, neutral magistrate to make the decision to enter unannounced, this amendment leaves the entire decision in the hands of the enforcing officer.

Mr. President, our constitutional history has seen an increase in the use of the magistrate as a safeguard securing the right of the individual to be secure in his home and person. This amendment takes us a step backward.

I have heard it argued that a no-knock warrant provision is conceptually unsound because the exigent circumstances justifying a no-knock search cannot be known before the officers execute the warrant. This same argument was made when the no-knock provisions were originally introduced. The argument was rejected at that time and it should be rejected now.

Contrary to the claims of the proponents of this amendment, exigent circumstances justifying an unannounced entry can be known before the officers execute a search warrant. Two examples should suffice to make this point clear. Suppose that gamblers use water-soluble betting slips, that they conduct their operations next to water containers, that they have defeated knock-and-wait searches previously by throwing the slips into the containers. In short, the gamblers are primed to effect the disposal of evidence. These exigent circumstances certainly are capable of being known in advance. In fact, they invariably would be known in advance of a search.

Consider another example. Suppose that a defendant has robbed a bank and killed a guard. In his escape, he is confronted by a police officer and kills him. He knows the police are hot on his trail. If these exigent circumstances are known 1 hour or so in advance, in time for a court to rule on whether complete surprise is necessary.

Mr. President, contrary to the arguments of my distinguished colleagues, I believe that "no knock" warrants have proven to be a highly successful law enforcement tool. True, this statutory authority has been used sparingly in the past several years. However, the Congress intended this law enforcement tool to be used sparingly. And while it has been used sparingly, where it has been used, it was used well.

Statistics from the Department of Justice show that the Office of Drug Abuse Law Enforcement was authorized to execute 112 no-knock warrants from April 1, 1972 to June 30, 1973; 97 of these warrants were actually executed, resulting in seizure of narcotics in 70 occasions. Over 100 weapons were also seized.

The Bureau of Narcotics and Dangerous Drugs—and its successor agency—the Drug Enforcement Administration—have had six no-knock warrants authorized since the enactment of Public Law 91-513, the Comprehensive Drug Abuse Prevention and Control Act. Two of these warrants have been executed.

In both instances, serious Federal narcotics offenses were being committed. Weapons were in the possession of those arrested. Under these circumstances, the no-knock warrant not only acted to protect the Federal officers involved, but also served to prevent the destruction of evidence.

It is reasonable to assume that no-knock warrants will be sought in the future in these special situations. The Drug Enforcement Administration, now the only Federal law enforcement agency executing the Federal statute, supports a continuation of this authority—as does the Attorney General.

Mr. President, the "no knock" warrant was never painted as a panacea to crime. It is only one of many arrows in the law enforcement quiver. Nevertheless, if it is a useful statute—as these statistics indicate it is—then it should be retained—even if used only on a selected and infrequent basis.

It has also been argued, Mr. President, that "no knock" warrants will increase the possibility of injuries to police and to others. This assertion is demonstrably untrue.

Suppose that a murderer is holed up in a home. Which appears to be the better tactic for the police to employ—to knock on the door and announce their identity and the purpose or to break in unannounced? Commonsense indicates that the police will place themselves in greater peril by knocking, standing in front of the door, and announcing their identity and purpose than by surprising the criminals by entering unannounced.

Mr. President, I am very concerned with the recent comments about the abuses that have resulted from enforce-

ment of these statutes. The most prominent abuse that is cited to justify the repeal of "no knock" authority is the mistaken raids conducted by Drug Abuse Law Enforcement Officers in Collinsville, Ill., during April 1973. However, contrary to popular belief, the unfortunate Collinsville drug raids were not situations in which the Federal or any State "no knock" statute was utilized. The facts clearly indicate that no warrant was obtained at all. The fact that these agents were exonerated of all criminal charges has been overlooked strangely enough. The agents were put on trial in Federal court. The jury rendered a "not guilty" verdict on all counts.

On this point about so-called abuses: As the Attorney General wrote me in a letter opposing the repeal of the "no knock" provisions—a letter which I inserted in the CONGRESSIONAL RECORD on June 24, 1974:

> The potential for abuses of this authority is no greater than the potential abuse of all authority vested in federal law enforcement officers. The effective deterrent to abuse is a combination of responsible administration and continuing oversight by the Congress rather than the abolition of the authority itself.

Mr. President, this matter was extensively debated by both the House and Senate during consideration of the District of Columbia Court Reform and Criminal Procedure Act of 1970 and the Comprehensive Drug Abuse Prevention and Control Act of 1970. A majority of both bodies supported the no-knock provisions at that time as a useful law enforcement tool.

Unfortunately, we have not had an opportunity to adequately review the operation and effect of the no-knock provisions since enactment of this legislation. The Judiciary Committee has held no hearings on this particular subject matter since that time. Hearings should be held to examine the necessity for the provisions, the experience under the no-knock provisions, their potential for abuse, and most of all, to assess the impact of repealing no-knock search warrant authority. If we are to legislate on this matter, we should do so on the basis of a complete record.

Mr. President, I conclude where I began. I believe that this amendment poses a dangerous potential to jeopardize the rights of the individual to be secure in his home. This amendment eliminates the requirement that a neutral magistrate decide whether the police may enter a home unannounced. It places that decision in the hands of the enforcing officer who may be caught up in the tension and excitement at the scene.

I believe that the magistrate should be placed between the police and the door of the accused. This is the role that the magistrate plays whenever the rights of the individual to be secure in his home or to remain at liberty are at stake. It is the role that the magistrate should play here. In my view, the added safeguard of judicial approval is desirable not only as a matter of policy but also as a means of providing public assurances of the protection of privacy through judicial intervention.

Mr. President, I recognize that this amendment will likely pass in this Chamber today. I can detect the mood of the Senate. But I think the Senate is making a mistake today. Therefore, I must register my opposition to the amendment. To me, this amendment represents a step backward in the journey to develop safeguards protecting the individual's right to privacy and security.

Mr. McCLELLAN. Mr. President, 4 years ago, when the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the District of Columbia Court Reform and Criminal Procedure Act were considered and passed by the Congress, I expressed my support for their no-knock search warrant provisions. I believed then that these provisions would create an additional useful tool in the war against crime—a tool that would be especially helpful in the battle against drug traffickers—the lowest type of criminal. Nothing has happened in the 4 years since the passage of this legislation to change my view about these provisions. I still feel that they provide both a useful and necessary aid to our law enforcement personnel—particularly in the drug area. For this reason I must oppose the amendment.

Mr. President, the no-knock provisions that this amendment seeks to repeal do not permit unconstitutional searches or unreasonable invasions of privacy. The contrary is actually the case. The general rule still remains intact that police officers must identify themselves and announce their presence before executing a search warrant. Rather than permitting no-knock abuses, the no-knock provision provides a statutory means for seeking an advance judicial opinion as to the existence of circumstances which justify an unannounced entry criteria identical to long-recognized exceptions to the knock requirement. These provisions are designed to protect the citizen from abuses.

Under these provisions, the police may get a court order allowing an unannounced or no-knock search in four very restricted instances. Such an order is only obtainable where the police can convince a court that probable cause exists to believe that an announced search would endanger the police or some other person, would result in the destruction of the evidence sought or the escape of the person to be arrested, or would be a useless gesture.

Mr. President, these instances where the no-knock statute would permit a warrant to include provision for an unannounced search are essentially the common law exceptions to the announcement requirement upheld and recognized as constitutional by the Supreme Court in *Ker* v. *California*, 374 U.S. 23 (1962), and *Sabbath* v. *United States*, 391 U.S. 585 (1967). Under these exceptions the police are entitled to act on their own—without a court order—in just the types of situations covered by the no-knock provisions.

The fact that these exceptions already exist raises the question for some about the necessity for legislation in this area. The provisions are desirable for two reasons. As I have already indicated, they serve to protect citizens from police misjudgment concerning circumstances supporting an unannounced search in a particular case by providing for prior court determination of the necessity for such a search. But they also serve to assist law enforcement by permitting the government in appropriate cases to shift the burden of making an unguided decision as to whether an unannounced search is permissible from the policeman to a dispassionate judge who is better able to make such a decision by reason of both training and objectivity. This procedure gives maximum assurance that any evidence seized will be admissible at trial.

Mr. President, some argue that the no-knock provisions are being abused. In support of their position, they cite the unfortunate raids in Collinsville, Ill., of last year. No one can defend the action that took place in those raids. But my information is that the agents involved were acting without judicial sanction and had never sought to invoke the no-knock provisions. The Collinsville incident, therefore, hardly provides a basis for criticizing, or a reason to repeal, the no-knock legislation.

It seems to me it argues for the retention of the statute and its enforcement with respect to the procedures required to get a court order and to authorize a no-knock search.

Regardless of where the blame for the Collinsville raids lies, however, since those raids occurred the Drug Enforcement Administration has significantly modified its guidelines with regard to "no-knock" warrants. Such warrants are now used extremely sparingly. Their sparing use should not lead to the conclusion that they are unnecessary, however. Their utility has been specifically recognized by the Attorney General, who, I am advised, also opposes this amendment.

Mr. President, such warrants containing "no-knock" authority are now being sought in an exceptionally small number of cases under recently strengthened guidelines issued by the Drug Enforcement Administration. I have yet to be shown that the "no-knock" provisions that the Congress enacted only 4 years ago are unconstitutional, or that they are unnecessary, or have been abused by our law enforcement personnel. Though sparingly used, they may make the difference in the successful investigation and prosecution of selected important drug cases. Until abuse is demonstrated, I will continue to support retention of "no-knock" warrant procedures in our drug enforcement arsenal.

Mr. President, in view of what is happening in Turkey today, in view of the fact that the prohibition against raising the poppy in Turkey is being removed and Turkish farmers will now once again be engaged in the cultivation and production of this source of opium, we can expect the availability of heroin in our country to increase in the immediate future. With that impending situation, I think it behooves us, possibly more than ever before, to try to devise by legislation and by rules and regulations consistent

with our Constitution every legal tool within our ingenuity capable of combatting this terrible evil.

Mr. President, I am going to support any legislation, any provision of law, that is sponsored here, which I believe is within the constitutional powers of the Government and which I think will strengthen the arm of law enforcement in this field. I will support any such legislation that will alleviate the terrible conditions that result from the use of illicit drugs.

Mr. President, I hope the statute will not be repealed.

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

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Mr. President, it is with a great deal of pleasure that I remember the efforts and the leadership of the distinguished Senator from Arkansas in connection with the passage of the District of Columbia crime control bill and the drug control bill in 1970. At that time there were many dire forebodings of what would happen and the prediction of all sorts of abuses and horrors if the no-knock provision were adopted.

The Senator has indicated he is not satisfied there has been any showing of any such abuse as would warrant an amendment that would delete the present Federal statutes on this subject. This Senator is not aware of any such abuse. No examples have been cited that are no-knock cases. The Collinsville case is not a no-knock case.

As I said, we were told during the debates of 1970 that if we were to leave this provision in the law, terrible things would happen. And none of those things have happened.

Mr. McCLELLAN. I think there is a responsibility on the part of Congress to hold hearings and ascertain whether there have been abuses, whether the law has been administered properly, whether there are any weakness in it—in short, to ascertain from the facts whether it is a law that is unworkable. Such hearings will enable us to determine if it is a law that we can well do without and still afford to society the protection that it needs with respect to this particular crime.

I have no information that would lead me to believe there is any need to repeal this law. If there is such information, I think we should first have hearings to determine the facts. I do think it is a matter which is of such potential consequence that it deserves a hearing. I do not think it would be wise for us to act until there has been a proper congressional investigation.

Mr. HRUSKA. Mr. President, before the Senator entered the Chamber, there was reference to the fact that there were 4,400-plus arrests and seizures of drugs by the Drug Enforcement Administration. Out of that amount, there were about 118 applications made for no-knock warrants, a total of 99 of which were executed and the rest were not.

Mr. President, I ask unanimous consent to have printed in the RECORD the results of the 4,400-plus arrests in terms of seized contraband and point out again that the power has been used sparingly, with discretion and discrimination, pursuant to the desires expressed in the debates of 1970. If there were any abuses of any size on any scale there is no record.

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

JULY 11, 1974.

DRUG ENFORCEMENT ADMINISTRATION

July 73–March 74

Arrests—4,412.

Seizures of drugs—Volume of drugs removed during fiscal year 74 through March.

Opium—11 pounds.
Heroin—202 pounds.
Cocaine—317 pounds.
Marijuana—67,286 pounds.
Hashish—483 pounds.
Hallucinogens—2,143,956 du (dosage units).
Depressants—571,325 du.
Stimulants—5,470,483 du.
Methadone—2,815 du.

Mr. TAFT. Mr. President, I strongly support the Ervin-Nelson amendment to and extension of S. 2848, the Alcohol and Drug Abuse Education Act, as well as S. 3355, a bill to amend the Comprehensive Drug Prevention and Control Act of 1970. Both bills in combined effect offer intensified programs designed to combat the problems of alcohol and drug abuse which face our Nation today.

I, for one, have been alarmed at the increasing rate of drug abuse in our country. Although our national effort in the past has been primarily directed toward helping the person who is already in serious trouble with alcohol and/or drugs and perhaps dependent thereon, in my view, a substantial commitment must be made toward preventative education for the Nation's youth who may be experimenting or tempted to experiment with dangerous drugs. This preventative endeavor is essential if we are to make real headway in our constant struggle against alcohol and drug abuse. Thus we must undertake early intervention and primary prevention activities so that potential users do not in fact become drug abusers. S. 2848 provides the types of intensified efforts necessary to accomplish these ultimate objectives and I, as a cosponsor of the bill, fully support them.

Preventative education and early intervention is, of course, only a part of the answer. We, as a people, must be prepared to provide sufficient appropriations and priority to the Drug Enforcement Administration in order to improve Federal efforts toward the elimination of the illegal drug traffic and the corresponding reduction of drug-related crimes. Rigorous enforcement of Federal drug laws is a necessary component for insuring that the source and supply of dangerous substances is reduced and hopefully 1 day eliminated. The DEA does an excellent job in this area by way of its law enforcement, intelligence and research and development programs. Therefore, I support S. 3355 and its recognition of the need for providing appropriations to this agency on a continuing basis so that its vital mission may be successfully fulfilled.

Furthermore, I also favor the repeal of the no-knock provisions contained in both the Comprehensive Drug Prevention and Control Act of 1970, as well as the District of Columbia Crime Act as proposed by the Ervin-Nelson amendment. While I voted for the original bill which instituted statutory no-knock, its rare and ineffective usage does not warrant its retention.

The interpretation and application of no-knock laws have created confusion and uncertainty. Notwithstanding this, testimony before the Judiciary Committee hearing the repeal amendment by responsible law enforcement officials confirms that the no-knock provisions have not been necessary to the rigorous enforcement of Federal drug laws. Because of the demonstrated minimal value of the no-knock provisions, I feel they are heavily outweighed by the need for protection of an individual's fourth amendment right to privacy and protection against unreasonable searches and seizures. Repeal of the statutory provision and restoration of the common law doctrine of "exigent circumstances," the existence of which would warrant officers bursting into a home of an accused without prior notice, is a far better resolution of interests between fourth amendment rights and the responsibility of Government agents to properly enforce the laws.

Mr. BENTSEN. Mr. President, I am pleased to join as a cosponsor of the amendment offered by the distinguished Senator from North Carolina.

I believe experience has shown that unannounced entries by law-enforcement officers serve little purpose and do violence to the guarantees of the fourth amendment. From the earliest history of American jurisprudence our courts have held that, except for certain narrow exceptions, a reasonable search and seizure requires that an officer announce his authority and purpose before entering a dwelling. Under the no-knock provisions of the Controlled Substances Act, American citizens have been subjected to searches and seizures that more resemble the tactics of a dictatorial police force rather than those of a Federal law-enforcement force.

I yield to no one in my strong feelings about the sale and distribution of illegal narcotics and drugs. I feel that those who participate in such drug trafficking should be subjected to the most severe penalties available under the law.

But I am not prepared to sacrifice the liberties secured by the fourth amendment in order to accomplish that purpose. I do not believe that the road to better law enforcement lies through kicking down the doors of innocent citizens in the course of unannounced, nocturnal raids. That is not the answer to America's drug abuse problems and I hope that the Senate will agree to the amendment proposed by the senior Senator from North Carolina.

Mr. CRANSTON. Mr. President, I urge the Senate to act today to repeal the Federal no-knock statutes now on the books.

No-knock entry legislation has proven to be inherently dangerous from both the point of view of the law-enforcement officer who is exposing himself to unknown risk, and from the point of view of the individual whose sanctity of home is violated without due process of law. I voted against giving no-knock entry powers to the Federal narcotics officers and to the District of Columbia police in 1970, and I am a cosponsor of the amendment offered today by Senator ERVIN. and Senator NELSON to repeal the two no-knock statutes now part of Federal and District of Columbia law.

Law-enforcement officers who have participated in no-knock raids call them "the scariest." And with good reason. Many citizens intend to defend the sanctity of their homes against unwarranted intrusion at all costs. I have received letters from Californians expressing the intent to kill, if necessary, to repel individuals, whether they be criminals or law-enforcement officers, who break and enter their homes. As one constituent put it:

> I will and can only assume that an intruder means harm to my family, and as he has no business in my home whatever, except to do harm, it shall remain my option of taking his life, if necessary, to protect myself, my home, or my family.

The risk to police officers entering a home without warning is clear. Officers breaking and entering homes during no-knock raids have been shot dead.

But the greater danger inherent in granting Federal narcotics police no-knock entry power was highlighted last year in the infamous "no knock" raids into two homes in Collinsville, Ill. The agents were said to have entered the houses without warrants, by kicking in the doors, without warning, shouting obscenities, and threatening the inhabitants with drawn weapons. The terrified inhabitants were only temporarily relieved when the agents left after discovering that they had entered the wrong houses.

Not even the police seem to desire no-knock authority. The District of Columbia police have not used no-knock authority since 1971. Federal narcotics officers, operating under the post-Collinsville guidelines, report only a handful of no-knock warrants issued.

If we repeal the no-knock statutes now on the books, police will continue to be able to act under the preexisting exception to the requirements of the fourth amendment, that they may execute searches without warning when the officers are justified in the belief that persons within a building are in imminent peril of bodily harm.

Repeal of no-knock entry authority will not weaken law enforcement. It will restore our basic liberties and constitutional protections against unwarranted, surprise invasions of the homes of private citizens by agents of the Federal Drug Enforcement Administration and officers of the District of Columbia Police Department.

Mr. BAYH. Mr. President, I speak in favor of Senator ERVIN's amendment No. 1487 to repeal both the Federal and District of Columbia no-knock statutes. These provisions are not at all necessary to the rigorous enforcement of the Federal drug laws or District of Columbia criminal laws. In a recent interview, for example, Chief of Police Jerry Wilson said that he would not object to repeal of the no-knock provision and its repeal would not affect us—the District of Columbia Metropolitan Police Department—one way or another.

These provisions are seldom if ever used. In fact, since the bill was signed in February 1971, less than a dozen such warrants were sought in the District of Columbia and none have been sought since October 1971. Nationally, 112 were authorized for Office of Drug Abuse law enforcement between April 7, 1972, and June 30, 1973, and 97 were executed; up to June 30, 1973, only 3 were authorized for BNDD and 1 executed; and since July 1, 1973, 2 have been authorized for DEA and only 1 executed. The rare use of these provisions is in part due to the experience of many officers who believe that the use of no-knock can increase the possibility of injuries both to police and occupants and that from a safety viewpoint it is more effective to announce identity and purpose.

Additionally, the marginal utility of the no-knock provisions is outweighed by the grave dangers which they pose to the fundamental and constitutionality guaranteed right to privacy. Recent reports have documented how Government agents have broken into the homes of, and terrorized, unsuspecting and even innocent individuals. These reports have also documented how the mere existence of the no-knock authority can breed an attitude which leads to Government agents placing themselves above the law.

The no-knock provisions, and the official state of mind which they foster, are clearly at odds with the Fourth Amendment. That amendment—which protects individuals against unreasonable searches and seizures by the government—requires that government agents identify themselves and their purposes before executing any search. Ennunciating the principle as understood by all but one of his colleagues, Supreme Court Justice William Brennan stated in *Ker* v. *California*, 374 U.S. 23, 49(1963), that.

> [T]he protections of individual freedom carried into the Fourth Amendment undoubtedly included this firmly established requirement of an announcement by police officers of purpose and authority before breaking into an individual's home. The requirement is no mere procedural nicety or formality attendant upon the service of a warrant. Decisions of both the federal and state courts have recognized, as did the English courts, that the requirement is of the essence of the substantive protections which safeguard individual liberty.

Exceptions to this "firmly established requirement" occur only when government agents are confronted with exigent circumstances immediately prior to the search. These exigent circumstances include the destruction of material evidence, a suspect's attempted escape, and the peril of bodily harm to someone inside the house to be searched. Such circumstances could not obviously be known in advance; they could become known only when the government agents attempted to execute a search.

In contrast, the no-knock provisions allow a court to make an advance determination that such exigent circumstances will exist and to give government agents prior authorization to dispense with the announcement of identity and purpose before executing their search. The prior determination of exigent circumstances flies in the face of logic; and the waiver of the government agents' announcement flies in the face of rights protected by the Constitution.

By repealing the no-knock provisions, our amendment would leave intact the constitutional and common law principles concerning government searches. Under those principles, as noted above, the no-knock searches would be permitted but only when exigent circumstances become known to government agents immediately prior to their contemplated search.

Mr. COOK. 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. COOK. 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. COOK. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

The result was announced—yeas 64, nays 31, as follows:

[No. 298 Leg.]

YEAS—64

Abourezk	Hart	Muskie
Aiken	Hartke	Nelson
Allen	Haskell	Packwood
Baker	Hatfield	Pastore
Bayh	Hathaway	Pearson
Bentsen	Huddleston	Pell
Biden	Hughes	Percy
Brock	Humphrey	Proxmire
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Byrd, Harry F., Jr.	Javits	Roth
Case	Kennedy	Schweiker
Church	Magnuson	Sparkman
Clark	Mathias	Stafford
Cook	McGee	Stevens
Cranston	McGovern	Stevenson
Dole	McIntyre	Symington
Domenici	Metcalf	Taft
Ervin	Metzenbaum	Tunney
Fong	Mondale	Weicker
Fulbright	Montoya	Williams
	Moss	

NAYS—31

Bartlett	Eastland	McClure
Beall	Fannin	Nunn
Bennett	Goldwater	Scott, Hugh
Bible	Griffin	Scott, William L.
Buckley	Gurney	Stennis
Byrd, Robert C.	Hansen	Talmadge
Cannon	Helms	Thurmond
Chiles	Hollings	Tower
Cotton	Hruska	Young
Curtis	Mansfield	
Dominick	McClellan	

NOT VOTING—5

Bellmon	Gravel	Long
Eagleton	Johnston	

So Mr. ERVIN's amendment was agreed to.

Mr. ERVIN. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. COOK and Mr. JAVITS moved to lay the motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11385) to amend the Public Health Services Act to revise the programs of health services research and to extend the program of assistance for medical libraries, and it was signed by the President pro tempore.

AMENDMENT OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT

The Senate continued with the consideration of the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis.

Mr. MONDALE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator will not proceed until the Senate is in order. The Chair asks the cooperation of Senators in preserving order in the Senate.

The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

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

Mr. ROBERT C. BYRD. Mr. President, may the clerk read at least the page number?

The PRESIDING OFFICER. The clerk will read as requested.

The legislative clerk read as follows:

After line 7 insert the following new section 2:

"INTERNATIONAL NARCOTICS CONTROL"

The PRESIDING OFFICER. Without objection, the text of the amendment will be printed in the RECORD.

The amendment is as follows:

After line 7 insert the following new section 2:

"INTERNATIONAL NARCOTICS CONTROL

"SEC. 2. Section 481 of the Foreign Assistance Act of 1961, as amended, is amended by adding at the end thereof the following new subsections:

"'(c)(1) Any Government, which permits the production of opium poppies, shall not be the recipient of economic and military assistance furnished under this or any other Act, and all sales, credit sales and guarantees made with respect to such country under the Foreign Military Sales Act and under title I of the Agricultural Trade Development and Assistance Act of 1954 shall be suspended, beginning January 1, 1975, unless the President determines that a ban on the growing of opium poppies is in effect or certifies to the Congress that safeguards adopted by the Government concerned effectively prevents the diversion of opium and its derivatives into illicit markets. In the latter event, economic and military assistance and sales, credit sales and guarantees shall continue only so long as the President continues to be satisfied as to the effectiveness of such safeguards.

"'(2) The Director of the Drug Enforcement Administration shall report immediately to the President and the Congress any evidence that opium and its derivatives are being diverted from permitted production into illicit markets and shall also make a detailed report on or before June 30 of each year to the President and the Congress, reporting on the worldwide production of opium and its derivatives, the effectiveness of controls in each producing country, and the extent to which opium and its derivatives are being diverted into illicit markets.

"'(3) If, within 60 days of continuous session of the Congress after a report is submitted under paragraph (2), the Congress adopts a concurrent resolution finding that any country has not effectively banned the growing of opium poppies and that such country is not effectively preventing opium, or its derivatives, produced in such country from being diverted into illicit markets, then the President shall immediately suspend economic and military assistance to such country under this or any other Act and shall suspend all sales, credit sales and guarantees to such country under the Foreign Military Sales Act and title I of the Agricultural Trade Development and Assistance Act of 1954.'"

"(d) Subsections (e)–(g) of this section are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(e) For purposes of the section, the term "concurrent resolution" means only a concurrent resolution of the Senate or the House of Representatives the matter after the resolving clause of which is substantially as follows: "The Congress finds that ——— has not effectively banned the production of opium and has not effectively prevented the diversion of opium, or its derivatives, produced therein from being diverted into illicit markets." (the blank space being filled with the name of the country involved.)

"(f) A concurrent resolution shall be referred to the appropriate committee of the Senate or the House as the case may be. When the committee of the House has reported a concurrent resolution, it is in order at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report upon such resolution has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(2) General debate on any concurrent resolution in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to. No amendment to the concurrent resolution is in order.

"(3) Motions to postpone, made with respect to the consideration of any concurrent resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(4) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution shall be decided without debate.

"(g)(1) Debate in the Senate on any concurrent resolution and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between and controlled by the majority leader and the minority leader or their designees.

"(2) No amendment to the concurrent resolution is in order. A motion to further limit debate is not debatable. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution."

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

Mr. MONDALE. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Brian Conboy have the privilege of the floor.

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

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

Mr MONDALE. I yield.

Mr. COOK. Mr. President, I ask unanimous consent that Kenneth Lazarus and Ronald Meredith, of the staff of the Judiciary Committee, may have the privilege of the floor.

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

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

Mr. MONDALE. I yield.

Mr. HARTKE. Mr. President, I ask unanimous consent that Stephen McCloud may have the privilege of the floor.

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

Mr. MONDALE. Mr. President, this amendment is introduced by myself, the distinguished Senator from New York (Mr. BUCKLEY), my distinguished colleague from Minnesota (Mr. HUMPHREY), the distinguished Senator from Kentucky (Mr. COOK), the distinguished Senator from Indiana (Mr. BAYH), and others.

Mr. JAVITS. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

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

Mr. MONDALE. Mr. President, I ask unanimous consent that the names of the Senator from Wisconsin (Mr. NELSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from North Dakota (Mr. BURDICK) be added as cosponsors.

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

Mr. MONDALE. Mr. President, since 1971, the Government of Turkey had suspended the production of all opium in that country. Prior to that time, 80 percent of the opium that ended up on the streets of the United States, usually in the form of heroin, had derived from production in Turkey.

Since the ban on opium production, there has been dramatic and exceedingly impressive progress made in the fight against drug addiction in this country.

Since that time, the number of estimated heroin addicts in this country has dropped by 60 percent from something like 600,000 to 250,000. In the Nation's Capital the number of heroin addicts has dropped from an estimated 16,000 to 2,000.

One of the key reasons is that when Turkey agreed to stop producing opium and the illicit channels for opium, which ends up in the form of heroin, had dried up from Turkish sources, the cost of heroin rose so dramatically that no one could sustain the habit without outside help, even if they were committing crimes.

They had to get help and they went to health officials, law enforcement officials, and by the thousands these pathetic Americans who had been hooked by heroin received help to get out from under this awful habit and crime relating to drug addiction dropped dramatically. It is one of the truly exciting success stories in recent years.

Now, the Turks have announced that they not only intend to drop the ban and resume production, but in fact intend to have more production now than they had before.

In addition to that, they have released from prison in Turkey many of the top drug smugglers who were key parts of the illicit drug trade. I will not list more than a few names, but Mr. Kidred Bayhan was caught trying to smuggle 146 kilograms of morphine base from Turkey to France. That is the equivalent of 300 pounds of heroin at a value of about $14 million.

Mr. Bayhan and others who were major principals in the illicit drug smuggling racket under the new Turkish policies a few years ago were put in prison, as they should be. Now, Mr. Bayhan and many others rave been released under general amnesty and are ready to go back in business.

In addition to that, the head Turkish law enforcement officer who had headed up the highly successful effort before opium production had been terminated in Turkey has been removed from office and he is no longer there to enforce the law against opium production. That official's name is Mr. Erbut.

Everyone who studies this problem is absolutely convinced if the Turkish Government does what they announced they are going to do, coupled with these other attempts, we will see a resumption and perhaps at even higher levels.

Illegal drugs and opium traffic emanates from Turkey, that we saw in the pre-1971 era, and we will see a resumption of heroin addiction in this country. We will see people get hooked by the drugs, committing crimes, becoming pushers, prostitutes, and all the rest, in order to maintain this habit which costs an estimated $18,000 a year for each addict to sustain. We could well be back at the 600,000 heroin addicts in this country, or even more, as a result of that.

Now, that is not the only development that has occurred that bears upon the issue of what we should do in this country. The other development in recent years is that the domestic drug companies have increasingly included codeine, which has an opium base, in cough syrups and in other kinds of drugs, and the amount of the sales of these kinds of drugs containing codeine has soared fantastically in this country.

So the American drug industry that is dealing with opium wants more of it, and I say that rather than getting more opium, let us cut off the rapidly escalating sale of these drugs that are sort of an informal way of hooking our young people on opium-based narcotics.

For example, in 1967, American drug companies produced 20,457 kilograms of codeine. In 1972, 30,000 kilograms. By the end of this year, it is estimated to rise to 41,000 kilograms of codeine, much of which ends up in cough syrup and other kinds of drugs which are increasingly being sold through illegal sales to minors.

We cannot prove this, but we did wire the three drug companies and they have not answered. It has been charged that the three drug companies have been in Turkey recently negotiating for substantial purchases of opium, assuming the resumption of opium production in Turkey.

Now, I would say to those drug companies that instead of trying to increase their sales in these kinds of ways, at the expense of the young people of this country and the crime, and trying to increase your sources of opium for those purposes, why not turn around and cut off those sales that are risking the health and the future of our young people.

For all these reasons, we have taken the position that at the very least the Turkish Government, or any other government that is the recipient of military and economic aid, should not be able to have it both ways.

They should not be able to be the recipient of vast profits through the illicit sale of addictive drugs to our young people and at the same time have their hand out taking hundreds of millions of dollars from the taxpayers of the United States in the form of military and economic aid.

They cannot have it both ways. I do not think the American people will tolerate it. I do not know why they should.

This year the budget calls for $232 million of military aid and credits to a country that is planning to resume and to substantially expand opium production in that country.

May I say this is not an anti-Turkey amendment. This applies to any government in an opium-producing country receiving aid from the United States.

I would like to look upon the Government of Turkey and the people of Turkey as friends, but they must understand how serious and how profound this issue is to our people. We feel very deeply about it. We know the dangers of the drug menace, and if there is anything we can do to protect our young people, we are going to do it. We do not wish to offend them, but they must understand that this is not an issue the American people will take lightly.

So what does the amendment do? It provides, briefly, that any government which permits the production of opium poppies shall not be the recipient of economic and military assistance furnished under this or any other act, unless the President determines that a ban on the growing of opium poppies is in effect, or certifies to Congress that safeguards adopted by the government concerned sufficiently prevent the diversion of opium and its derivatives into illicit markets.

In the latter event, economic and military assistance, et cetera, shall continue only for so long as the President continues to be satisfied as to the effectiveness of such safeguards. It further provides that the Director of Drug Enforcement shall report immediately to the President and to Congress any evidence that opium and its derivatives are being diverted from permitted production into illicit markets, and shall make a detailed report on or before June 30 of each year to the President and Congress reporting on the worldwide production of opium.

The amendment also provides for an immediate and expedited consideration by Congress of what we should do in the case the drug enforcement office reports that this opium is not being strictly contained, if it is being produced, within legal channels.

Mr. President, I think this is a very reasonable amendment. It is the least that the American people can expect us to undertake, in the light of this new menace.

One of the arguments against us is that it affects our NATO facilities in Tur-

key. We might point out that in the recent Middle East crisis, the Turkish Government permitted the Russians to fly over Turkey, but they would not permit us to use Turkish facilities for national purposes at that time.

This morning the Foreign Minister from Turkey, Mr. Gunes, said that even if we cut off the aid to Turkey, the NATO facilities and bases will continue to operate, that they do not intend to close down those bases.

I ask unanimous consent that an article on this subject written by Mr. Roberts, and published in this morning's New York Times, be printed in the RECORD at this point.

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

TURKS SEE NO MAJOR RIFT WITH UNITED STATES OVER POPPIES

(By Steven V. Roberts)

ANKARA, TURKEY, July 10.—Turkish officials say that their decision last week to resume the cultivation of opium poppies should not cause a major rift in Turkish-American relations.

In an interview here, Foreign Minister Turan Gunes said that even if Washington cut off aid to Turkey, as some Congressmen had threatened, Ankara would not "change the status" of about two dozen vital military bases maintained here under the joint command of the two North Atlantic Treaty Organization allies.

"The friendship and alliance between the two countries is a serious thing," said the Foreign Minister. "The Turkish Government is not irresponsible enough to show undue reaction."

However, he warned, if American aid is canceled, it might cause an "unstoppable" wave of adverse opinion among Turkish politicians and the public at large. That fear is mirrored by American diplomats, who worry that the political temperature will rise in both countries and lead to a damaging series of retaliatory moves that no one really wants.

BAN ON POPPIES IN 1971

Turkey imposed a ban on poppies in 1971, after the United States exerted considerable pressure and pledged $35-million to compensate Turkish farmers. At that time, Washington contended that 80 per cent of the heroin reaching America was refined from Turkish opium.

In explaining their decision to cancel the ban, the Turks stressed the economic plight of the farmers and other peasants who had made a living from the poppy. Moreover, they said, there is a worldwide shortage of opium, which is used for legitimate medicinal purposes.

More important, poppies became an emotional political issue here and Turks say that the Government is determined to assert Turkey's power and independence. "The poppy decision was taken as a matter of pride," explained one well-informed journalist. "Everybody here felt very insulted."

The question of pride came up again this week when several Turkish politicians and publications complained that neither President Nixon nor Secretary of State Kissinger had come to Turkey during their Mideast visits.

"America takes us for granted," commented Outlook, a news magazine.

U.S. SUMMONS MACOMBER

When the ban was canceled, Washington immediately announced its "deep concern" and summoned Ambassador William B. Macomber, Jr., for consultations. Congressional critics called the Turkish action "hostile and outrageous" and urged President Nixon to cut off aid to Turkey. A number of bills were introduced that would also cut off aid, which this year would amount to $180-million in military funds and $27-million in economic assistance.

Turkish officials apparently underestimated the vehemence of American public opinion and the degree to which narcotics is an issue in American politics. According to one interpretation, their moderate comments represented an attempt to recoup some lost ground with Congress and perhaps stave off the cut in military aid.

At the same time, Turkish officials have been critical of the United States in several ways. Asked to comment on a State Department charge that Turkey had broken an agreement with Washington by lifting the ban, Mr. Gunes insisted that "there is no such agreement between the United States and Turkey."

The ban, he said, was a "unilateral" action, as was Washington's pledge of $35-million—an interpretation that is heatedly disputed by the American Embassy here.

EXCHANGE OF CHARGES

American politicians, Mr. Gunes added, have had "very exaggerated reactions" to the Turkish action. These politicians may be serving their own ends" he said, "but I'm afraid they will be harming Turkish-American friendship at the same time."

Americans also accuse the Turks of having "exaggerated" reactions. The farmers never made much money selling opium legally, they insist, and would be much better off in the long run developing alternative sources of income, such as wheat or livestock.

Mr. MONDALE. Mr. President, the American people, speaking through their Government, must make clear that the American youth of this country are not going to be held hostage to the drug traffickers of the world if we have anything to say about it. And we are not going to permit a situation where our young are victimized in that way, and at the same time lavish those nations with substantial aid of the kinds contemplated in the President's budget.

I would very much hope that this amendment would be adopted, and that, on the basis of it, our friends in Turkey will reconsider what is indeed, in my opinion, a very, very serious step.

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

Mr. MONDALE. I yield to the Senator from Indiana.

Mr. HARTKE. Let me ask the Senator a question. Is this a substantial modification of the original amendment sponsored by the Senator from Minnesota?

Mr. MONDALE. In essence, it is the same amendment, with two differences. The first difference is that it gives the State Department some time to try to work it out. The aid is suspended as of the end of this year, unless the President certifies either that opium is not being produced, or, if it is being produced, it will be produced under controls that assure that it will remain in the legal medicinal areas and not appear in the illicit traffic. Those are the two changes.

Mr. HARTKE. I thought this was the substitute amendment for amendment No. 1539. Is that right?

Mr. MONDALE. I do not know. I had an earlier printed amendment. The amendment which I have offered indicates the changes we have made.

Mr. HARTKE. As I understood the original amendment, it dealt only with the government of Turkey. Is that right?

Mr. MONDALE. That is correct. That is the other change. This applies to Turkey and all countries which produce opium.

Mr. HARTKE. It is substantially in accordance with the amendment of the Senator from Indiana; is that correct?

Mr. MONDALE. As the Senator knows——

Mr. HARTKE. My printed amendment adopted by the Senate last year.

Mr. MONDALE. As the Senator from Indiana knows, there is no one whose leadership I respect more than his.

Mr. HARTKE. I was just trying to identify it. The original amendment, as I understood it, dealt with Turkey, and suspended aid immediately.

Mr. MONDALE. Well, this——

Mr. HARTKE. Is that right?

Mr. MONDALE. That is correct.

Mr. HARTKE. This amendment does not do that at all. What this amendment does is set up a procedure whereby aid can be suspended.

Mr. MONDALE. No; the Senator is incorrect. If he will read the amendment, aid is suspended——

Mr. HARTKE. At the end of this year.

Mr. MONDALE. At the end of this year, the suspension goes into effect automatically.

Mr. HARTKE. If——

Mr. MONDALE. Unless the President finds they are not producing opium, or that production is strictly controlled within legal channels.

So I think the amendment is the same as the one earlier introduced. It responds to the realities of the diplomatic situation. It gives the State Department some additional time to try to negotiate an agreement with the Turks which will serve our national interests as well as theirs. It is a strong amendment, and I think, in the light of the circumstances, it is the best possible.

Mr. HARTKE. Will the Senator yield further?

Mr. MONDALE. I had promised to yield—I yield to the Senator from Indiana.

Mr. HARTKE. As I understand your amendment—and I think I do understand the amendment, because it is substantially the amendment which was adopted by the Senate last year, which I introduced, but removed in conference, and similar to my printed amendment before the Senate at this moment. It provides for a two-step operation: First, that the President shall certify to Congress that there is substantial compliance, and after that report is made to Congress, Congress then has, in effect, a second look at the report to determine whether or not there has been compliance with the overall criteria set forth in the amendment.

Is that correct?

Mr. MONDALE. I am a little hesitant to comment on the Senator's amendment.

Mr. HARTKE. I am commenting on the amendment of the Senator from Minnesota.

Mr. MONDALE. I just described my amendment

Mr. HARTKE. As I understand the amendment of the Senator from Minnesota, it is a two-step proposition, because if it is not I think it should be clarified.

First, certain criteria are established upon which an illicit drug traffic is the triggering device or precipitating element in causing the Government to suspend all types of economic assistance to any country. The President, in order to comply with that, makes a finding that the country is, in accordance with his interpretation, complying with the requirements of the amendment. That is the first step; am I correct on that?

Mr. MONDALE. It is a little different than the Senator describes it. The amendment says that all forms of aid as defined in the act are suspended.

Mr. HARTKE. Unless the President——

Mr. MONDALE. Effective January 1, 1975, unless the President determines either that opium is not being produced, or that it is being produced under strict and effective legal controls.

Mr. HARTKE. The criteria are established in the amendment

Mr. MONDALE. Well, under the amendment any illicit production is prohibited. Otherwise aid will not issue.

Mr. HARTKE. All right. Now, the second step is that there must be such a finding submitted to Congress; is that correct?

Mr. MONDALE. Yes, the determination of the President is submitted to Congress, that is true.

Mr. HARTKE. That is right?

Mr. MONDALE. That is correct.

Mr. HARTKE Then Congress can, at that time, by concurrent resolution, really in effect override the President's decision; is that correct?

Mr. MONDALE. Under section 3 of the amendment there is a complicated procedure by which Congress can adopt a concurrent resolution finding that any country has not effectively banned the growing of opium or prevented its diversion into illicit markets, and should Congress adopt that resolution, the President has no choice but to immediately suspend assistance.

Mr. HARTKE. Which, in effect, as I understand it, is a two-step procedure. First, the President must make an affirmative finding, submit that affirmative finding to Congress, and then Congress has the opportunity to override the decision of the President; is that correct?

Mr. MONDALE. In addition to that, of course, we have an important section here which deals with the role of the Drug Enforcement Office in submitting reports to Congress upon the receipt of any information of illicit marketing of drugs and, in addition, to present an annual specified report detailing such evidence and any steps that might be taken to deal with it.

I should say that under this amendment the two steps are really independent of each other. The first step is a step Congress takes now in prohibiting and banning aid to opium-producing countries effective January 1, 1975, unless the President determines, under the standards of the act, either they are not growing opium or it is not in illegal traffic.

The second procedure is an independent procedure by which Congress, by joint resolution, may declare under the standards of the act that there is illicit trade, in which event the President has no choice but to terminate aid.

I would now like to yield to my distinguished cosponsor.

Mr. HARTKE. Mr. President, can I have an answer to my question? Is it demeaning to the Senator to answer the question?

What I am trying to find out is the distinction between this amendment and the situation as the law exists now and my amendment passed by the Senate last year.

Mr. MONDALE. Oh, yes, there is a real difference between the law as it now exists and this amendment.

This law that is in effect is based on my amendment in 1971, and it provides generally that aid shall not go to countries where the President determines that drugs are in the illicit traffic. There is no triggering device. Congress has not suspended aid, there is no reporting mechanism, there is no mechanism in that amendment which is now law by which Congress can act in the face of evidence of illicit traffic.

This amendment says aid is suspended. Congress acts by adopting this amendment, effective January 1, 1975, that is what we are saying, unless the President acts affirmatively to declare that under his determination it is either nonexistent or that the production is contained within legal grounds and not being diverted into illicit traffic, and then you have all the rest.

Mr. HARTKE. Mr. President, we in the Congress must display a spirit and a concern for the people of America rather than those of any individual or group. While the interest of some is personal, the interest of this body must be for the common good.

My amendment introduced and adopted by the Senate last year has the ideas embodied in the amendment of Senator MONDALE introduced in the Senate today. The interests of the American people, the Senate, the Congress, and our system of Government were the reasons for the long hours of work that went into the refinement of my amendment.

Mr. President, my concern about the illicit production of opium and its derivatives has a long history. Last year the Senate adopted my amendment to the Foreign Assistance Act clarifying the United States position relative to production by other countries of opium and the need for those countries to take adequate steps to prevent the illicit distribution of dangerous narcotics into the United States. However, my amendment was not adopted by the conference committee, and we now are experiencing the resumption of opium production in Turkey in violation of that nation's agreement with the United States.

Mr. President, for the purpose of accurately reflecting the decision of the Government of Turkey, I ask unanimous consent that the decree issued on July 1, 1974, by the Council of Ministers be printed in the RECORD following my remarks as exhibit No. 1.

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

(See exhibit 1.)

Mr. HARTKE. Mr. President, the clear meaning of the decree is that Turkey has decided to resume the cultivation of poppies and the production of opium. However, I do not mean to single out Turkey as the worst offender in not controlling illicit narcotics. Turkey is a recent and ready example of the nonexistent or minimal efforts of many countries around the world that receive U.S. foreign aid and yet do not exert effective measures to stop the flow of dangerous drugs to the United States or elsewhere.

Many have asked, and may still ask, why should the U.S. Congress and the American people be interested in a decree issued from Turkey or anywhere else? That question can be answered by the law enforcement officials, drug treatment officials, addicts, former addicts, educators, parents, and all those within our society who have seen or known anyone within the grasp of heroin. An editorial in the Washington Post summed up the interests of the United States and its people best:

> Indeed, if the Turkish Government had announced that it intended to land secret agents at night on American shores to poison and kill thousands of Americans and to subvert the foundations of American society—which is, of course, exactly what heroin does—then that would be regarded as an act of war and handled accordingly.

While the Turkish Government did not announce a decision to land human agents of war on the shores of the United States, there is no other interpretation to their decree than an announcement that they intend to land dangerous drug agents of war, equally deadly, to ravage the unsuspecting citizens of our society. We in the Congress have an obligation to act in the best interests of our people to prevent the landing of those agents on the shores of the United States. We in the Congress also have a duty to prohibit any assistance whatever from flowing from our people and Government to the Turkish people and Government, or to any other country which does not effectively control or at least attempt to effectively control the production, distribution, transportation, and manufacture of opium and is derivatives, especially heroin.

Mr. President, I ask unanimous consent that the Washington Post editorial "Turkish Politics and American Heroin" be printed in the RECORD following my remarks as "Exhibit No. 2."

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

(See exhibit 2.)

Mr. HARTKE. My amendment adopted in the Senate during the first session of this Congress is identical to the one I offer today on behalf of myself and my colleague from Indiana, and comanager of the bill (Mr. BAYH).

In summary, my amendment calls 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. That good faith effort must include the following:

First. The enactment of criminal laws controlling the production, distribution, transportation, and manufacture of opium and its derivaties;

Second. The establishment of a viable agency to enforce those criminal laws;

Third. The vigorous enforcement of those criminal laws;

Fourth. Full cooperation with all United States Departments or Agencies involved in preventing the flow of illicit opium and its derivatives into the United States;

Fifth. The establishment of border procedures for the interdiction of opium and its derivaties out of or into such country;

Sixth. The destruction of all illicit opium and its derivaties after its evidentiary use has expired; and

Seventh. The establishment of detailed procedures for the control of all legal production, transportation, distribution, or manufacture of opium and its derivatives.

Mr. President, my amendment does not immediately suspend aid and assistance to any country but establishes a two-level approach; first, within the administration, which has the authority to immediately suspend all forms of assistance in the national interest; and second, after a report has been made to the Congress, by resolution adopted by both the House and Senate certifying that a country is not taking adequate steps to control the illicit production of opium.

Mr. President, the administration has deemed it necessary to recall the Ambassador to Turkey to review and study the meaning of the decree. I would suggest to the administration that they study the details and implications of the addiction problem during the past 5 years. When there was little concern within the administration for the problem of narcotics and dangerous drugs, the number of addicts rose at an alarming rate. When the drug enforcement administration was formed, now headed by an able prosecutor Mr. John Bartels, the number of addicts and the illicit distribution of opium and its derivatives, mostly heroin, in the United States decreased and became manageable.

Mr. President, I ask unanimous consent that an article appearing in the Washington Post entitled "Envoy to Turkey Recalled by U.S." to be printed following my remarks in the RECORD as exhibit No. 3.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 3.)

Mr. HARTKE. Mr. President, the Government of Turkey is not without internal political interest in the cultivation of poppies. It was believed by the Congress and the administration that the agreement entered into between our governments furnished money and assistance to the farmers of Turkey to change over their production and cultivation of poppies to nutritious food and fiber to feed the people of Turkey. It has been reported that the reason the farmers of Turkey have expressed their desire to resume the cultivation of poppies is that the Government of Turkey has not distributed U.S. assistance nor has it planned the transfer of production for the farmers to nutritious necessities.

While we in the Senate do not control the motivations of Turkish farmers, we should not acquiese in the destruction of American lives at the expense of American taxpayers. We must inform the Government of Turkey in no uncertain terms that the cultivation of poppies as planned will result in the suspension of all foreign aid until such time as they continue with the agreement earlier entered into with the United States.

Mr. President, the Government of Turkey has indicated in a letter to me that the agreement we thought bilateral was unilateral with an assurance from our Government that we would furnish $35 million to Turkey. It is their position that Turkey cannot survive economically without the production of opium. I do not agree with their position. However, as Congressman RANGEL of New York has indicated, we cannot here argue that Turkey is acting completely to the detriment of the United States and to their own betterment. Congressman RANGEL therefore asked the General Accounting Office to do a study and investigation into the agreement between the United States and Turkey, and into the decree of Turkey to resume the cultivation of the poppy.

Under my amendment, the President shall make an affirmative finding to the Congress within 90 days of enactment into law of this bill that each country is taking adequate steps to control the illicit production and distribution of opium and its derivatives. We can assume that the General Accounting Office will have completed their study and the Congress can then either agree to the affirmative findings of the President, or by a concurrent resolution immediately suspend aid and assistance to Turkey or any other country not taking adequate steps to control the illicit production of opium.

We in the Senate must surely voice our disapproval of the conduct of Turkey, but we must at the same time review the facts leading to Turkey's decision, and then suspend all assistance to them if we feel they are not taking adequate steps to control the illicit production and distribution of poppies. Mr. President, the evidence is prima facie at this stage, and must be reviewed in light of all the evidence before we bring international cooperation and assistance to a halt. From the evidence we have it appears that Turkey is not taking adequate steps to control the illicit production and cultivation of poppies, and therefore opium. Adequate steps would be the immediate suspension by the Turkish Government of their decree to resume the cultivation of poppies.

We cannot single out one country for consideration in the illicit distribution of narcotics. We must apply standards that are fair to all countries, and go on record against the illicit production and distribution of narcotics by any country.

Mr. President, section 481 of the Foreign Economic Assistance Act authorizes the President to suspend military and economic assistance to those nations which he determines have not taken adequate steps to suppress dangerous drugs. The President fully embraced this responsibility on September 18, 1972, when he proclaimed:

> Any government whose leaders participate in or protect the activities of those who contribute to our drug problem should know that the President of the United States is required by statute to suspend all American economic and military assistance to such a regime. I shall not hesitate to comply fully and promptly with that statute.

Apparently the President feels that there are no nations which continue to be lax in their control of heroin and other related hard drugs.

Congressional study and journalistic research have brought forth incontrovertible evidence that a number of governments are simply not complying with the requests of the U.S. Government to vigorously suppress drug traffic. Yet, no action has been taken by the President under the Foreign Assistance Act.

Mr. President, I ask unanimous consent that the July 1973 report of a special study mission entitled "The Narcotics Situation in Southeast Asia," submitted to the House of Representatives Committee on Foreign Affairs by the Honorable LESTER L. WOLFF, be printed in the RECORD following my remarks as exhibit No. 4.

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

(See exhibit 4.)

Mr. HARTKE. Mr. President, Congress gave the power to terminate economic and military assistance to the President only because we know that customs agents and border patrols cannot singlehandedly reduce smuggling of heroin. A General Accounting Office report stated, in reference to customs operations, that—

> Although these efforts may deter amateurs and small-scale smugglers, they have not had and probably cannot have any real impact on the organized groups engaged in large-scale heroin smuggling.

Customs does act as a strong deterrent, but it simply cannot stop the main bulk of heroin reaching the streets of America, addicting our citizens, filling the coffers of organized crime, and accounting for nearly half of the crimes committed in our cities. Profits in the drug trade are enormous. A $100,000 investment can yield $2 million within 6 months. Ten or 15 tons of heroin, originally costing $5 million will take a turnover for American dealers of $9.8 billion.

With profits as high as this, as long as there is a source and a reasonably safe route of transit, there will most assuredly be successful smuggling of heroin into the United States to feed the veins of American addicts.

The logic behind section 481 of the Foreign Assistance Act was to stop heroin at its source. Perhaps the flaw in our legislation has been that the President alone is left to decide whether or not a government's cooperation has been adequate. As we know, there are many countries in violation of the intent of Congress. Yet, section 481 of the Foreign Assistance Act of 1961 leaves the President to decide which governments are taking adequate steps to control the illicit production, transportation, and manufacture of opium and its derivatives.

Gen. Lewis W. Walt, U.S.M.C. retired, as head of a special task force on the world drug situation, stated that Southeast Asia is providing 10 or 15 percent of the total drug traffic coming into this country. Because of its tremendous potential, however, Southeast Asia could eventually replace Turkey as the historically largest producer of opium with approximately 400 tons. Laos, however, accounted for nearly 100 tons, and Thailand for almost 200 tons annually. According to the State Department, heroin imports from Southeast Asia's "golden triangle" to the United States doubled from 1969 to 1971. These countries not only produce opium but are the homes for many of the laboratories which convert opium into the more valuable and much deadlier commodity—heroin.

General Walt went on to say that:

We know as a certainty that a lot of opium entering the illicit market is grown in the "golden triangle," or in Turkey, Iran, Afghanistan, Pakistan, and Mexico.

The Turkish Government took decisive action in banning all opium production after 1971, effectively drying up Turkish sources. We know with the Turkish decree that Turkey will again become a ready source of opium. Mexico is the source of approximately 10 percent of the heroin smuggled into the United States and is the route of transit of 15 percent.

The Mexican Government has established penalties under the agrarian reform law for those who plant or permit the planting of poppies. Penalties include confiscation of land and livestock. In addition, they have mobolized 10,000 troops for antidrug operations, destroying more than 2,500 hectares of poppy fields.

Mr. President, Michel Lamberti, coauthor of a book on heroin, has written:

Any underdeveloped country with a large unemployed labor force can start production. This could be the case, say for various South American countries.

If we are to deter these underdeveloped countries from realizing their potential as opium producers and distributors, we must act boldly and decisively. Some have suggested paying subsidies to those foreign farmers who agree not to grow opium as we did in Turkey. But from the Washington Post of Februrary 18, 1973:

American financial contributions to Turkey as part of the considerable political pressure to stop the cultivation of the opium poppy after 1972, offers no encouragement to other opium producing countries. Turkish authorities had estimated that stopping opium production would cost the country 432 million dollars: United States contribution have amounted to $35 million.

Obviously, the cost of such subsidies to fully pay for opium produced in all countries would become extreme. Threats to begin production by those countries not now engaged might also become commonplace. We would be paying a tribute to tyranny—the tyranny of drug traffickers. The only practical and honorable deterrent to illicit opium production and sales is the imposition of penalties on those nations which refuse to cooperate. And the only penalty we can impose on a sovereign nation is the removal of American assistance. This line of reasoning was accepted by Congress when it gave the power of suspending foreign aid to countries not taking adequate steps to end illicit drug traffic to the President. By enacting the pending amendment, we will be serving notice to organized crime and governments which have not taken vigorous action against drug traffic that we will no longer tolerate the financial, human or social costs that illicit drugs have brought to our people.

For several years, I have been actively seeking legislation which would reduce the flow of narcotics into the United States. I am introducing an amendment to the Comprehensive Drug Abuse Prevention and Control Act which clarifies the posture of the U.S. Government in international narcotics control. A similar amendment was passed by the Senate last year.

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.

My amendment is not a cure-all for the drug problem in the United States. It is a positive beginning by the Congress to tell the world and the administration that we are tired of rhetoric. And it tells addicts that we care and want to help.

EXHIBIT 1

The Council of Ministers decided on July 1, 1974, to put into effect the following decree on the "decision on the issuance of permission for the cultivation of the opium poppy in seven provinces during the 1974–1975 season," upon the recommendation of the Ministries of Commerce and Food—Agriculture and Livestock, in accordance with article 1 of law No. 1470.

Decree No. 7/8522, dated July 1, 1974.

Decision on the issuance of permission for the cultivation of the opium poppy in seven provinces during the 1974–1975 season:

Article 1—Permission has been granted for opium poppy cultivation and the production of raw opium during the 1974–1975 season in the provinces of Afyon, Burdur, Denizli, Isparta, Butahya and Usak, and in the districts of Aksehir, Beysehir, Boganhisar and Ilgin in Konya province, in order to improve the living conditions of the farmers whose livelihood depends on this cultivation and to meet the requirements of raw material for pharmaceuticals.

Article 2—The Soil Products Office (TMO) shall issue licenses permitting cultivation to the opium poppy farmers and raw opium producers of the provinces and districts listed in article 1 in accordance with the principles of law No. 1470 and the regulation on the enforcement of this law.

Article 3—The farmers who have been issued licenses permitting cultivation are obligated to comply fully with the provisions of the law and the regulation in question on opium poppy cultivation and raw opium production. The penal provisions of law No. 1470 and other related laws shall be enforced against the farmers who do not comply with these provisions and the licenses permitting cultivation issued to them shall be cancelled.

Article 4—Priority in issuing licenses permitting opium poppy cultivation and raw opium production shall be given for the lands traditionally set aside for such farming and production, and also to the farmers who depend for their income solely on this activity. Each farmer shall be issued a cultivation license for a maximum of 6 decares.

Article 5—The Soil Products Office is authorized to make advance payments to the opium poppy farmers and raw opium producers in cases of necessity and within the limits of their needs.

Article 6—Opium poppy farmers and raw opium production are banned in the provinces and districts outside of those listed in article 1. Opium poppy cultivation shall be controlled with the cooperation of the Ministries of Interior and Food—Agriculture and Livestock by using all available means. Additional measures shall be taken rapidly to assist the Ministry of Interior in its efforts to impose a more effective control for the prevention of narcotic drugs smuggling.

Article 7—Paragraph 2 of article 2 of Council of Ministers decree No. 7/2652 of June 29, 1971 concerning the total ban of opium poppy cultivation and raw opium production in Turkey is hereby repealed.

Article 8—This decree takes effect on the date of its publication.

Article 9—This decree will be enforced by the Ministries of Interior, Commerce, and Food—Agriculture and Livestock.

EXHIBIT 2

TURKISH POLITICS AND AMERICAN HEROIN

Turkish politics is savagely aggravating the American narcotics problem. Premier Erkit, needing to broaden his support to sustain his rule, has lifted the three-year-old ban on legal cultivation of opium poppies. This apparently will please poppy farmers and, as well, nationalists who equate the American interest in halting poppy cultivation with interference in Turkey's domestic affairs. But it will also push more heroin into the United States, which until the ban got 80 per cent of its illegal heroin from Turkey. The Turks contend that their legal opium goes exclusively into legal pharmaceuticals. Corrupt Turkish officials, international drug peddlers and American addicts know better. Even before the new Turkish crop comes in next spring, stockpiled heroin is expected to flow more copiously into American city streets. Many of the gains of the last three years, in getting the narcotics traffic in hand and in providing services to addicts threaten to come undone.

In their rage and despair over the Turkish decision, some drug officials and legislators are now suggesting that the United States halt its aid. They would cut off not only regular military aid going to Turkey as a fellow member of NATO but the special economic aid offered three years ago in order to help cushion the economic effects of stopping poppy cultivation. The impulse to punish Turkey, to end special favors and to apply pressure to reverse the poppy decision is entirely understandable. A good argument can be made that no conceivable contribution which Turkey makes to the common NATO defense can outweigh the harm which

the Turks do the United States by letting poppies grow. Indeed, if the Turkish government had announced that it intended to land secret agents at night on American shores to poison and kill thousands of Americans and to subvert the foundations of American society—which is, of course, exactly what heroin does—then that would be regarded as an act of war and handled accordingly.

The relevant question, however, is whether an aid cutoff will or will not likely lead to the desired result of a restoration of the poppy ban. Given the volatile condition of Turkish politics, one cannot be sure. Perhaps the more effective response, rather than ending aid, would be double aid: blackmail, but for a worthy end. Perhaps military and counter-poppy aid to Turkey, instead of being offered separately, should be offered in one package—to force a debate within the Turkish government. In any event, the American response, whatever it is, must proceed not just from a sense of outrage, however well justified, but from a precise feel for the Turkish scene. If Turkish politics is the source of American heroin, then only Turkish politics can stop the flow.

EXHIBIT 3

ENVOY TO TURKEY RECALLED BY THE UNITED STATES

(By Dan Morgan)

The State Department announced yesterday that it had called home the U.S. ambassador in Turkey to "review" that country's decision to lift its ban on the growing of opium poppies, the source of much of the heroin that reached the United States in the past.

The move, following earlier official expressions of American "regret" at the Turkish decision, was a fresh sign of the seriousness with which Washington views the resumption of poppy cultivation by its NATO ally.

State Department spokesman John King said that Ambassador William B. Macomber would start a review of "the whole situation" beginning Monday.

Earlier in the week, the State Department had described the Turkish move as a "breach" of a 1971 agreement providing for the phase-out of poppy growing in exchange for compensation. The 1971 agreement had been hailed by the Nixon Administration as a model for its worldwide program of nipping the heroin supply at the source.

In authorizing the resumption of poppy cultivation in six provinces . . . Ecevit said:

"Poppy cultivation will be limited, and will be done only by license under the stringent measures and effective control of the state. Our government, while resuming limited opium cultivation, will take most effective measures as a humanitarian duty, in order not to harm humanity at all. We hope noboby in the world will be in doubt of the goodwill and determination of the Turkish government in this respect."

American officials have been skeptical in the past about the efficiency of the Turkish control procedures. Prior to 1972, the last year in which the poppies were grown, the government inspections were said to have been spotty, and black market and smuggling operations were reported to have been widespread.

Ecevit said that, if necessary, the government would seek "new powers" from parliament to enforce its controls.

The main incentive offered by the United States for the 1971 agreement was $35.7 million in compensation, $15 million to pay farmers for their losses and $20.7 million to develop replacement crops.

So far, $15 million of that has been paid and U.S. officials indicated that further payments would now be held up.

The dispute has long aroused strong emotions on both sides, with ramifications for NATO security arrangements.

Several years ago, some congressmen called for a curtailment of American military aid to Turkey if the country continued to allow poppy growing. This provoked angry reactions from nationalist-minded Turkish politicians, who said the United States was trying to dictate the country's internal policies.

That, in turn, provoked jitters in the North Atlantic Treaty Organization because of the importance of Turkey as the cornerstone of the southeast flank of the alliance, and a principal outpost for monitoring Soviet air and sea movements in the eastern Mediterranean and Middle East area.

The United States now stations some 7,000 men in Turkey with an equal number of dependents. Izmir, on the Turkish west coast, is the headquarters of the alliance's southeast land forces, and of the 6th Allied Tactical Air Force. Sensitivity to the foreign presence and foreign "interference" runs deep in Turkey.

In 1969, under pressure from the Turkish government the U.S. bases in the country were renamed "common defense installations," with a coequal Turkish commander assigned to each of them.

Since 1948, the United States has pumped some $3 billion in military aid into Turkey. It is also scheduled to commence delivery, on credit terms, of 40 F-4 Phantom fighter-bombers there this summer.

Turkish politicians view the aid with mixed feelings. At the same time, all three political parties supported the resumption of poppy production.

The Turkish farm vote is a vital factor in the country's politics, and the ban was unpopular in many rural regions. Opium poppies have been a principal cash crop for centuries. For thousands of farmers, the poppy also has cultural significance. Many farmers use byproducts of the plant for harmless purposes, such as cooking oil.

EXHIBIT 4

THE NARCOTICS SITUATION IN SOUTHEAST ASIA

(Report of a Special Study Mission by Hon. Lester L. Wolff, New York)

FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., July 26, 1973.

This report has been submitted to the Committee on Foreign Affairs by Hon. Lester L. Wolff who conducted a special study mission between January 24 and February 2, 1973.

The findings in this report are those of Hon. Lester Wolff and do not necessarily reflect the views of the membership of the full Committee on Foreign Affairs.

THOMAS E. MORGAN,
Chairman.

LETTER OF TRANSMITTAL

Hon. THOMAS E. MORGAN,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: There is transmitted herewith a report of a study mission conducted by the undersigned, a member of the Committee on Foreign Affairs, between January 24, 1973, and February 2, 1973, as a follow-on investigation to a similar mission undertaken one year earlier.

The circumstances described in this report are those that existed at the time of the investigation. I am happy to report that there is growing evidence that the situation is changing and that the governments in the area, particularly Thailand and Burma, are making considerable progress in their fight against narcotics trafficking, although much remains to be accomplished.

The purpose of the study mission was to gather information regarding international narcotics traffic, specifically about the illicit flow of heroin which is smuggled into the United States from the Far East.

Among those with whom I have met in connection with this inquiry, were U.S. narcotics control officials responsible for monitoring the situation in France, Turkey, Thailand, South Vietnam, Hong Kong, Japan, and the Philippines. Numerous other U.S. diplomatic and military personnel were also consulted. In addition, foreign law enforcement officials as well as other foreign sources provided much useful information.

I want to express my thanks and appreciation to the Departments of State and Defense for the advice, cooperation, and assistance extended to me by their representatives at home and abroad. I should also like to express my appreciation to the many agents of the Bureau of Narcotics and Dangerous Drugs, with whom I have met frequently over the past year both in the United States and overseas. They have consistently supplied me with accurate, factual, and self-critical appraisals of the international trafficking picture.

It is my hope that this report will be of value to the members of the Foreign Affairs Committee and the Congress as we work to solve the heroin problem in the United States.

LESTER L. WOLFF,
Member of Congress.

PREFACE

If it is not already the Nation's No. 1 crime and health problem, heroin addiction is rapidly gaining that dubious distinction.

It is estimated that there are over 500,000 heroin addicts in the United States today; about half that number live in the New York metropolitan area. Narcotics addiction is believed responsible for at least half, perhaps as much as three-quarters of all street crimes committed in this country. Last year, more than 1,100 deaths in New York alone were blamed on narcotics. The majority of these deaths were among young people under the age of 23.

Heroin is refined from the opium poppy which is not grown in the United States. Therefore, all of the heroin used in this country must be smuggled into the country. The United States must therefore rely upon the cooperation of other nations, particularly the producing nations, in preventing the drug from entering the United States.

The most effective recognized method to combat heroin addiction, failing the elimination of domestic demand, is to cut off the supply at its source. To reach this critical goal, it is necessary to study international narcotics traffic in detail—pinpointing opium-producing nations, analyzing the degree of cooperation extended in efforts to inhibit the illegal international flow of drugs, determining the method of shipment and identifying the operators, routes, dealers, as well as political leaders and law enforcement officials who may be involved.

Based on an understanding of the mechanism of the traffic, the U.S. Government must mount a determined and unified effort to stamp out the ever-increasing trade in heroin.

The task cannot be accomplished by the United States alone. Because the problem of narcotics abuse is no longer confined to the United States, international awareness and a desire to cooperate have increased significantly. However, more active cooperation and vigorous law enforcement are required to effectively restrict heroin traffic.

In its work in international organizations, as well as in its bilateral dealings with

friendly foreign countries, it is imperative that the U.S. Government stress the need to control the source of the heroin supply.

Here at home, immediate action must be taken to commit increased resources of men, money, and materiel to this fight. While recognizing the necessity of helping those already addicted to heroin, the U.S. Government must now take strong and definitive action to halt the traffic in heroin to protect present and future generations of Americans from the infectious scourge of heroin dependence.

The seriousness of the heroin problem cries out for a massive effort. That plea must be heard.

THE GOLDEN TRIANGLE

The major share of opium produced in Southeast Asia is grown in the triborder area of Burma, Thailand, and Laos known as the "Golden Triangle." It is estimated that as much as 700 tons of the 990–1,410 tons of illicit opium grown in the world are cultivated in this region.

Estimates for production of opium in the area are—

Burma: 200–400 metric tons.

Thailand: 130–200 metric tons.

Laos: 100–120 metric tons.[1]

Golden Triangle opium is known to be the major source of heroin entering Vietnam and is becoming a major resource for the illicit market in the United States.

Despite greater efforts at enforcement and control, refining operations, particularly of the white No. 4 heroin used by American addicts appear to be increasing. It is believed that at least two dozen clandestine labs have been operating in the triborder area, with at least half of them concentrating solely on the production of the No. 4 heroin.

Although the traffic in this area really knows no borders, the most useful way in which to analyze the situation is country by country.

Burma

The Burmese situation is perhaps best described by superlatives, for it produces the greatest amount of opium in the Golden Triangle, and the United States has less influence upon Burma than upon any other country in Southeast Asia.

Poppy cultivation in Burma is entirely uncontrolled. Insurgency is a major problem for the Burmese, and estimates place the amount of territory under insurgent control at more than 30 percent. Meanwhile, opium has historically been a major cash crop in Burma, and much of it is consumed locally. However, the growth in opium production in recent years indicates an increasing export of Burmese opium into the illicit markets in Thailand and Hong Kong.

There is increasing optimism, however, that the operations of the major Burmese traffickers are being disrupted. For example, Lo Hsing-han, described by many as the "kingpin of the heroin traffic in Southeast Asia," was captured by Thai authorities on July 17, 1973, after having been driven into Northern Thailand by Burmese military forces. Simultaneously, his brother, who is reputed to have operated Lo Hsing-han's heroin laboratories is believed to have been captured by the Burmese in Burma. This is the kind of cooperative action that is required if the international effort against narcotics is to be successful.

Inherent in the Burmese opium trade is the illicit traffic in armaments in Southeast Asia. From the inception of U.S. military sales and military assistance programs in that region, substantial amounts of arms, ammunition, and equipment have fallen into the hands of indigenous insurgent groups in the various countries of the area. This was of great assistance to opium traffickers and has been an irritant to Burmese-U.S. relations.

Narcotics traffic along the Burmese border with Laos and Thailand is virtually uncontrolled and efforts at suppression are hindered by a lack of communication. Moreover, Burma's nonalinement policy, its distrust of foreigners, and the insurgency problem all combine to hamper efforts at even minimal narcotics control. While the United States does maintain diplomatic relations with Burma, it has little influence. There are no economic or military assistance programs for Burma and Burmese-U.S. diplomatic relations are cordial but restrained.[2]

While there has been little overt cooperation in combating the narcotics problem, however, it is possible that international efforts and public attention will compel the Burmese to take more effective action against the skyrocketing opium production within their borders. There is growing addiction in Burma although it is not yet a serious problem. This situation, combined with Burmese concern about becoming the focus of international attention as a source nation, has led the Burmese Government to adopt a more cooperative attitude, at least toward the United Nations.

U.S. officials in Burma have reportedly been active in supplying the Burmese Government with information on narcotics production and addiction in Burma in an attempt to persuade the Burmese of the importance of the problem and the Burmese contribution to the growth of this international menace.

This bilateral exchange should continue. However, much more must be initiated to insure that the massive Burmese supply of opium does not grow to an even greater proportion of the traffic in the Golden Triangle and that poppy cultivation does not increase to fill the demand created by strong enforcement measures in other areas. International organizations must step up their efforts to induce the Government of Burma to cooperate.

It is well for Burma to remain unalined. In spite of the capture of Lo Hsing-han, that Government should restrain the production of the opium that finds its way into illicit channels.

Laos

U.S. efforts to secure the active cooperation of the Laotian Government to halt the production of and trafficking in opiates appear to be meeting with some limited success.

Laos has traditionally been both a producing and shipping nation for heroin going to Vietnam and other areas of the Far East. Opium cultivation appears to have been reduced significantly by the continued strife in the northern growing areas, while increased control and enforcement efforts seem to have forced some traffickers to shift their refining operations to Thailand or Burma.

On November 15, 1971, opium production, use, and dealing were finally made illegal in Laos. Obviously this alone did not end the problem, but it did create an atmosphere which has resulted in sharply increased enforcement efforts.

The U.S. mission has emphasized the very direct link between cooperative efforts to deal with the narcotics trade and continued U.S. assistance programs in Laos. Unfortunately, while the Government of Laos has been receptive, it is handicapped because it controls neither the entire country, nor the nonduty activities of certain high-ranking military commanders.

For some time it has been acknowledged that ranking Lao military officers have been involved in drug smuggling and efforts to enforce antinarcotics laws among military personnel have not been entirely successful.

Significantly, the new narcotics enforcement agency in Laos does have joint military and civilian staffing which may prove to be more effective against the military involvement in the drug traffic. U.S. officials should continue to press in the strongest way for more stringent customs control over all military aircraft and personnel. Only in this way can the continued involvement of the Laos military in the transport of narcotics be stopped.

In addition to training and equipping this new narcotics investigative unit, the United States has also provided similar training to Laotion customs personnel. American advisers are also working with Laotian authorities on drug education and rehabilitation projects.

Because of the uncertain internal and external situation faced by Laos, the ultimate success of this drug suppression effort cannot be predicted. However, at least a start has been made and U.S. agencies are beginning to receive the degree of cooperation that is necessary if the goal of halting the production and flow of opium and heroin from Laos is to be attained. Every effort should be made to insure the continuance of this cooperation.

THAILAND

In many ways, Thailand is the key to the narcotics traffic in Southeast Asia. In addition to being an opium-producing nation with an annual production estimated at between 130 and 200 metric tons annually, Thailand continues to serve as the major conduit for the flow of opium and its derivatives to the illicit market in Vietnam, Hong Kong, and ultimately the United States.

In the northwestern area of Thailand, around Chiang Mai, quantities of opium are grown and harvested annually. Some of the opium is refined into heroin in clandestine laboratories located along the Thai-Burmese border, while some of it is transported south to Bangkok for refining or shipping to the refineries in Hong Kong.

Virtually every form of transportation imaginable is used to get the opium or heroin to the south for further shipment. Mule caravans, trucks, cars, and even planes are being used. American officials state that Thai police interceptions of opium caravans are few and far between; partly because of a lack of expertise and partly because of an unwillingness on the part of some officials to exert the effort necessary to intercept the smugglers; although a National Broadcasting Co. camera crew—nonprofessionals in narcotics control—were able to locate, follow, and film a relatively large opium caravan in Thailand as recently as 1972.

While part of the enforcement problem can be attributed to lack of manpower, funds, and expertise, much of the blame seems more properly attributable to corruption and a lack of cooperation among middle and lower echelon law enforcement officials.

There has been a great deal of surface public activity on the narcotics front during the past year in Thailand. This was in part a response to an amendment which I offered to the Foreign Assistance Act last year. The amendment would have suspended all economic and military assistance to Thailand because of its lack of effective action to stop

[1] Little is known of opium production in Laos. The Communists control some producing areas and military operations have disrupted some of the Meo and Yato tribesmen who traditionally grow opium.

[2] Information has been received that in an effort to cooperate with U.S. narcotics officials, Burma has requested a number of helicopters from the United States because this was the only method of surveillance of the remote isolated "growing" areas. After a series of negotiations the Burmese withdrew the request.

the production of and trafficking in opiates. There are encouraging indications that this situation may be changing and I have not reintroduced this amendment. Hopefully, it will be unnecessary.

While there was an increase in the number and quantity of seizures of narcotic drugs in Thailand during the past year, there are two factors that make the effectiveness of the Thai effort more apparent than real. First, most of the recent seizures have resulted from information provided by American—not Thai—agents, and second, the increase in seizures has not kept pace with the increased volume of heroin traffic in and through Thailand.

Upon returning from my previous study mission, I named Thailand as the major conduit for opium and heroin traffic in Southeast Asia. Responding to my statement the following day, Gen. Prapass Charusathiara, Deputy Chairman of the ruling National Executive Council and Commander in Chief of the Army called it "unfounded slander" and went on to say that "we [the Thais] can almost boast there is no poppy cultivation in Thailand."[3]

Five days later, on March 7, 1972, the Associated Press reported from Bangkok: "The Thai Government burned 26 tons of opium Tuesday night and officials said it was a rebuttal to a New York Congressman's charge that Thailand isn't doing enough to stop illegal drug traffic."

It is estimated that if this raw opium had been refined into heroin it could have supplied nearly half the U.S. "market" for almost a full year.

Within a few weeks of this spectacular and highly publicized burning, which was always reported to be a Thai-initiated and sponsored action, I received reports that the material destroyed in the blaze was not entirely opium. My congressional office staff attempted repeatedly to check out these reports with a number of the U.S. Government departments and agencies involved. In each case, assurances were given that the material destroyed was opium which the Thai Government secured in exchange for resettlement land and other considerations to the Chinese Irregular Forces who turned over the opium.

On July 31, 1972, syndicated columnist Jack Anderson, citing a classified weekly narcotics intelligence report circulated by the Bureau of Narcotics and Dangerous Drugs made similar allegations—that perhaps as little as 20 percent of the 26 tons burned were actually opium. According to Mr. Anderson's associate, Les Whitten, the report was from an informant who had been used on many previous occasions by the BNDD who was considered reliable. Mr. Whitten also indicated the material in these "summaries" was used by many of the agencies responsible for monitoring international narcotics traffic.

The Bureau of Narcotics and Dangerous Drugs held a press conference, including a movie of the destruction of the 26 tons, the day after the column appeared in order to refute the charges. In addition to film, two BNDD representatives who witnessed and tested the material burned were also present at the meeting. A transcript of the Deputy Director's statement appears in Appendix 1.

A member of my office staff attended the conference and inquired about the cost of the destruction. This triggered for the first time a response that revealed that approximately $1 million of American AID funds had been transferred to BNDD and then to the Thai Government ostensibly to get the Chinese Irregular Forces out of the opium growing business and to help them resettle. In return the Chinese agreed to turn over 26 tons of opium. As it turned out the United States paid $1 million for the opium.

This transaction did not become public knowledge until several weeks had passed during which time U.S. officials claimed that the opium burning was possible because of large seizures made by the Thai Government. Not an inkling was given of the U.S. participation in the buy until the BNDD was pressed by my staff.

Many questions still surround this preemptive buy decision. First of all, was the material that was bought and destroyed actually opium? Despite all of the denials, a reasonable doubt still remains. In fact, I have still not been afforded the opportunity to see the intelligence report quoted by columnist Anderson, despite BNDD's public confrontation that "the weekly summary" does exist.

Second, what was the intent of this decision? As explained by the Department of State in a letter that appears in Appendix 2, the opium was bought as part of a resettlement project for the so-called Chinese Irregular Forces (CIF), remnants of the old Third and Fifth Kuomintang (KMI) armies that fled China in 1949. The CIF have traditionally been the center of the Southeast Asian drug traffic and operate outside the effective control of the national governments involved.

My most recent investigation indicates that despite the guarantees reportedly made under the terms of the agreement discussed in the letter, the evidence suggests that large elements of the CIF are still engaged in illegal production of and trafficking in opiates. In fact, the surplus of No. 4 heroin resulting from the reduced market in Vietnam because of the U.S. troop withdrawal has precipitated an even greater effort by the CIF to set up links with the Corsican syndicates to get the opium into the illicit world market.

Third, perhaps the ultimate irony in an ill-conceived and unsuccessful effort, was a discovery made by a staff survey team of the Foreign Affairs Committee, reported earlier this year, that a 27th ton of opium was turned back by the authorities at the time of the turnover because there was no prior authorization to pay for it, coupled with a fear that further negotiations might result in the collapse of the entire deal. Unfortunately, this incident is representative of the errors in judgment that occur because U.S. officials, particularly in the field, have, for too long, been unwilling to insist on exerting what influence they have to convince the Thai Government that it must take more positive action to stop illegal trafficking in narcotics.

Instead, the U.S. Government has awarded an "achievement" plaque to Director General of Police Prasert Ruchirawongse to "encourage cooperation." The award is another example of public relations fluff which does not close down the traffic or increase cooperation. It only contributes to an atmosphere of "easy mark" response to a serious problem.

U.S. Ambassador to Thailand Leonard Unger explained the presentation of the plaque as well as other matters in a letter to me dated May 5, 1972. Furthermore, in testimony before a congressional inquiry last June, Nelson Gross, at that time Senior Adviser to the Secretary of State and Coordinator of International Narcotics Matters stated: "Based on all intelligence information available, the leaders of the Thai Government are not involved in the opium or heroin traffic, nor are they extending protection to traffickers * * * Police General Prasert, head of the Thai National Police * * * has stated publicly that he would punish any corrupt official."

It is interesting to note that General Prasert was reportedly involved in narcotics dealing himself and was therefore recently removed from office. Similarly, Colonel Pramuan Vanigblandu was relieved of his job as Deputy Commander of the Crime Suppression Division of the National Police in October 1972, for his role in drug dealing. This high level corruption clearly refutes the oft-repeated contention that policy level officials in Thailand have not been involved with or have not extended protection to those engaged in the illegal trafficking in narcotics.

It is worth pointing out that even Secretary of State William P. Rogers did not seem to appreciate the dimensions of this problem. For example, on March 21, 1972, he told the Foreign Affairs Committee drug hearings on the Foreign Assistance Act of 1972, in response to one of my questions on official corruption: "In terms of the Thai Government, we have been getting cooperation from them. They resent it when American officials criticize their officials without opportunity to be heard or anything * * * I would appreciate it, when you have information of this kind, let us have it privately * * * I do think in these cases if we could work quietly, it would be better. It does cause difficulty with other governments".

Meanwhile, much more recently, there was another example of the failure of the United States to gain, working "quietly," the cooperation of Thai officials on the vital drug question. For some time, American officials have been developing a plan for an aerial photographic survey of Thailand to evaluate opium production and to assist with planned efforts for crop substitution.

Last October, the U.S. Embassy in Bangkok was given Washington approval to secure Thai agreement to conduct an aerial survey of the Thai poppy growing area. Meanwhile, here in the United States, U.S. AID entered into discussions with Teledyne Geotronics, a California-based survey firm that maintains an office in Bangkok, about handling the mission provided the Thai Government approved the plan. The decision to use civilian rather than military planes was probably correct in that the Burmese border area would be a prime area for the reconnaissance work.

According to information I received on this matter, for 4 months, Thai officials "passed the poppy" among themselves on the decision whether to allow the survey to take place. By that time, it was February and the rainy season was beginning and the poppy season was over. In effect, the delay and foot dragging of uncooperative Thai officials precluded the usefulness of the mission until it was impossible to use aerial detection, and the State Department was forced to release Geotronics from its commitment.

This project had been considered a vitally important part of the long range antinarcotics effort in Thailand. It seems incomprehensible that if the U.S. Embassy had pressed strongly for this survey it would not have been approved immediately. This case certainly does not speak well of the type of cooperation the United States is receiving in its efforts to assist Thailand.

One of the key elements essential to halt the flow of heroin and opium from Thailand is the interruption of the Thai trawler sealift.

According to reliable sources, about a dozen trawlers currently operate year-round transporting opium, morphine base, and heroin principally from the port of Bangkok to Hong Kong and also to Singapore, Malaysia, and the Philippines for further processing and onward movement.

These trawlers are capable of carrying more than 3 metric tons of morphine base, heroin or opium. While it is possible that not all of

[3] The U.S. Cabinet Committee for International Narcotics Control estimates that opium production in Thailand could be as much as 200 tons per year.

this material is refined into No. 4 heroin for shipment to the United States, the seizure of just one trawler load would be the equivalent of about 6 percent of the annual consumption of heroin.

According to informed sources, increasingly reliable informants are available to point out the opium-carrying trawlers and more effective sophisticated detection devices are also available to help identify the trawlers. Despite these developments, success in choking off this major part of the Southeast Asian narcotics flow continues to elude U.S. antinarcotics officials.

Poor management, leaks, or bad intelligence is the only explanation for this lack of success, since the devices and personnel appear to be of superior quality. Trawler traffic must be halted if the narcotics traffic is to be interrupted. The situation could be improved by taking more stringent action to secure and seal off the area surrounding Bangkok. More effective customs, task force searches, and tough enforcement measures are the basic tools. With a military government in control in Thailand, there is simply no adequate explanation for the continued high rate of traffic in opium and its derivatives crossing Thailand for transshipment.

One final aspect of the drug situation in Thailand deserves mention. The United States still maintans a large military and diplomatic presence in Thailand, estimated at well in excess of 40,000 persons.

Despite that presence, drugs of all types, particularly marihuana and heroin, are readily available throughout Thailand, and widely used by American personnel. Reports indicate that heroin can be bought within 100 yards of Udorn Air Force Base and is readily available to American school-age dependents in Bangkok. U.S. authorities in Thailand should be pressing for more effective programs designed to eliminate drug abuse among U.S. personnel and their dependents. If strong action is not taken there will be a repeat of the narcotics abuse problems that the United States experienced in Vietnam.

In summary, the Government of Thailand should be the most effective in Southeast Asia in its efforts to end the flow of opium and its derivatives through Thai borders and ports—it is not.

Despite governmental cooperation with the United States and the United Nations in antidrug programs, corruption and indifference, particularly among low and middle working, and occasionally high level Thai officials, and the traditional importance of opium as a cash crop, the antinarcotics effort in Thailand has been relatively disappointing.

Far more direct and firm pressure must be exerted by our Government to achieve the meaningful cooperation which will sever the "Thai Connection."

OTHER ASIAN NATIONS

Vietnam

Vietnam is not a producer of opium; however, halting the flow of narcotics in South Vietnam is difficult because the drug traffic is restricted to heroin which is much more easily smuggled than opium.

Despite a late start, American pressure for cooperation from the Saigon government to halt what was fast becoming a military addiction problem of epidemic proportions did meet with some success. A substantial commitment of resources has been made by the Thieu government to reduce the availability of drugs in Vietnam and to interrupt the flow of drugs across its borders.

According to Vietnamese officials, the commitment of manpower to narcotics control programs has increased from 68 agents in 1968 to 388 at the beginning of 1973. The best available information suggests there are no heroin refineries currently operating in South Vietnam.

Cooperation between Vietnamese narcotics officials and U.S. narcotics agents appears to be excellent. Increased efforts by the Saigon BNDD to control opiate trafficking has yielded some important seizures. However, much remains to be accomplished before the situation in South Vietnam becomes satisfactory. When offenders are apprehended and sentenced they are "sprung" quickly and the antinarcotics officials must seek new convictions. Unless this is corrected no amount of real effort by enforcement officers will work.

Recent seizures of heroin and morphine base in Vietnam is directly traceable to Thailand. According to information I received, the vast majority of the impounded drugs bore identification markings of Thai processing labs.

Two other aspects of the Vietnamese narcotics situation should be noted. First, heroin addiction among native Vietnamese is on the increase. Second, despite the withdrawal of American troops from Vietnam, the street price of heroin has remained fairly stable.

Apparently a market for heroin still exists, and may even rise again in Vietnam. This will allow established transit routes and marketing practices to remain the same unless there is a continued cooperation effort at stringent control.

The U.S. Embassy must press the South Vietnamese to maintain their strong enforcement efforts and encourage that Government to keep convicted offenders in prison. As with other Southeast Asian countries, the United States should draw a clear and close connection between ongoing aid programs and drug suppression. Everything possible should be done to insure that present results will continue and improve in the future.

Korea

The narcotics problem in Korea continues in the "nonemergency" category, partly because of tough local narcotics laws and enforcement. The situation, however, should be monitored closely.

Drug abuse in Korea seems limited to foreigners, particularly American military personnel and dependent children. While marihuana use is widespread, abuse of amphetamines and barbiturates is the most serious abuse problem. Barbiturates are readily available in Korea and some reports indicate that as many as 25 percent of all servicemen under the age of 25 use them regularly.

The United States seems to be getting excellent cooperation from Korean authorities in prevention and control efforts. For example, the Government has fully cooperated with Army requests for overflights to monitor poppy growth. On the basis of information secured from these flights, Korean authorities have destroyed opium fields and arrested the growers. One important footnote is the continued high incidence of drug abuse among American servicemen. Stricter controls must be instituted to cut this down.

The importance of preventing Korea from becoming a narcotics transit route requires that at least one full-time BNDD agent should be assigned to the U.S. Embassy in order to monitor the situation. Currently one of the agents assigned to the U.S. Embassy in Tokyo monitors the situation on a part-time basis.

Philippines

One year ago, I warned that the Republic of the Philippines was becoming a new transit route for heroin produced in the Golden Triangle and would become a processing center in its own right.

My most recent inspection indicates this is becoming a reality. The many islands are difficult to patrol, local corruption is endemic, and smuggling is a major industry, resulting in a shift of some Southeast Asian drug operations from Hong Kong to Manila.

These facts have been recognized by the Bureau of Narcotics and Dangerous Drugs and its regional office has been transferred from Tokyo to Manila.

High quality No. 4 heroin is readily available and inexpensive in the Philippines. Local refineries have not taken hold as yet because smuggling heroin itself is so easy. However, a real crackdown on Golden Triangle refineries could precipitate the opening of heroin labs in this nation.

The current martial law situation in the Philippines has lessened the visibility of corruption. However, all available evidence indicates corruption remains almost as widespread as before. It does seem that now, however, a smaller segment of officialdom is reaping the profits.

Despite talk of cooperation and stiff new drug laws, enforcement seems as lax as ever. No major seizures have been reported and, as noted above, narcotics are readily available.

Japan

Narcotics in Japan, as in Korea, seems to be under control, However, careful monitoring is essential to insure that Japan's potential as a transit route is not utilized.

Japan has always cooperated fully with the United States in narcotics operations and drug abuse among both U.S. personnel and the Japanese people is low. The absence of drug users, drug production, and government corruption all make Japan a force but not a problem in controlling narcotics traffic in the Far East.

The one area in which the United States must enlist Japanese assistance is their production and exportation of acetic anhydride, a chemical essential to the heroin-refining process. While the volume of production and the worldwide legitimate demand for this chemical is great, its value in refining illicit opium necessitates monitoring.

Perhaps the best way to accomplish this, as suggested in a State Department letter to me dated April 4, 1973, Appendix 3, is to share information secured by antinarcotics authorities among the heroin-producing nations and Japan. Hopefully, continued representations by our Government will result in some monitoring of this chemical and eliminate its shipment to the heroin labs of the Far East.

Hong Kong

The British Crown Colony of Hong Kong is in many ways the center of the Far Eastern narcotics traffic. In addition to being an importer-exporter of opium and its derivatives, it also serves as a consumer and processor, not to mention being the financial center for traffickers.

The Bureau of Narcotics and Dangerous Drugs maintains an office in Hong Kong. However, the staffing of the office is nowhere near adequate to deal with the problem in Hong Kong. Until recently, U.S. agents of the highest caliber were not receiving the type of cooperation from British officials that would yield the most effective results. And while it is understandable that the British have reservations about American interference in enforcement matters, the U.S. consul general must continue to exert every effort to gain the wholehearted cooperation of the authorities in Hong Kong in the mutually beneficial effort to stop the production of and trafficking in narcotics throughout Southeast Asia.

In recent months, Hong Kong authorities have made several notable seizures. Their narcotics bureau is of very high quality. Despite these positive facts, however, the availability of No. 4 heroin seems to be on the increase. According to some reports at least a dozen secret heroin refineries are op-

erating day and night to keep the market supplied. Many so-called chemists have been identified as drug traffickers and their movements are being monitored. But the refining process can be so easily set up and is so highly mobile that apprehension and prosecution is difficult.

Another problem confronting both the United States and British narcotics enforcement agents is the massive air and sea traffic crisscrossing Hong Kong daily. There are more than 7,000 oceangoing vessels entering the port each year and some 30,000 smaller boats including junks of varying description operating in the general vicinity. Over 1 million airline passengers move through Hong Kong each year, with both air and sea cargo totaling millions of tons. Clearly the magnitude of the traffic makes even normal customs operations exceedingly difficult.

A particularly disturbing development in the Hong Kong narcotics situation is the recent increase in addiction among American servicemen in the colony on leave. According to the most recent reports I received on this serious matter, there were nine military drug-related deaths in the most recent 6-month period, compared to one such death in the previous 18 months. In addition, there are an average of at least one-half dozen overdose cases per month where treatment has been successful in preventing deaths. With 50,000 sailors and marines visiting Hong Kong annually, American efforts to halt drug traffic must be stepped up.

The Thai trawlers described earlier are another important aspect of the Hong Kong drug picture. It is estimated these trawlers bring about 50 tons of opium and its derivatives to Hong Kong from the Goldren Triangle. In some cases, these trawlers offload their deadly cargoes in Chinese Communist waters adjacent to the colony. In other instances, the opium is dropped in offshore waters for future pickup by other vessels. As the United States begins to work more closely with the People's Republic of China, the monitoring of these waters should be one of the highest priority items to be discussed.

An effective antinarcotics enforcement drive in Hong Kong would unquestionably have a constricting effect on the supply of heroin in the United States.

People's Republic of China

I have found no hard evidence that the PRC is involved in the international opium trade. A special report by the Strategic Intelligence Office of the BNDD recently stated:

"Not one investigation into heroin traffic in the area during the past 2 years indicates Chinese Communist involvement. In each case the traffickers were people engaged in criminal activity for the usual profit motive. Where the origin of the heroin could be traced, it was to refineries owned by private consortiums."

However, the rumor mills are constantly fueled by reports of PRC involvement in heroin and cross border activity of hill people.

CONCLUSIONS

The virulent growth of the narcotics scourge has reached such great proportions that immediate action must be taken if we are to control this menace. Control of drug abuse in this country rests on a major constriction at the source of the supply which continues to overwhelm drug abuse law enforcement efforts. We have initiated only a limited assault upon the sources of opium and its derivatives, which reflects negatively upon the extent of our commitments to this battle. Our own half-hearted exertions have prompted Southeast Asian officials to ignore BNDD and customs agents when they request assistance in antinarcotics efforts. Combined, these postures have allowed the level of international narcotics traffic to rise precipitously. This passivity cannot continue, for each day the drug epidemic in this country continues to find new victims.

We can no longer accept foot dragging at any level in this country; nor can we accept refusals by Southeast Asian governments to cooperate in this effort. The United States has freely given men and money in the past when the security of other nations has been threatened, and we now ask their help in return to combat a threat to our own national security—the drug culture.

Excuses given by some American officials that Southeast Asia's local restrictions hamper our own antinarcotics activities are not valid when explaining failure to stem the drug traffic. America's drug problem is getting worse instead of better. Drug abuse and drug-related deaths are a frightening fact of life in this country. Many foreign nations consider this deadly traffic solely an American problem because they have low user populations of their own. Asian nations in particular have forced America to carry the entire burden of attack. Unless these countries join our struggle against this peril, Asia itself ultimately will be faced with a user population rivaling our own and they will be less able to deal with that problem than we are now.

Because no opium is grown in the United States, it must be imported from producing nations to fill the American addict's demand for heroin. Southeast Asia and the subcontinent are well suited for this production with a favorable climate, unstable central governments, and a vast unskilled work force; hence their cooperation is essential. Without coordinated efforts to constrict the supply of opium, narcotics use will continue and expand beyond any possibility of containment by responsible officials. The nations of Southeast Asia must be convinced of the import we attach to the severity of this problem.

However, we can expect wholehearted cooperation from these countries only if we marshal every possible means at hand which can effectively halt the deadly flow of narcotics into this country. A killer is on the loose in Southeast Asia. Anything less than total cooperation from drug producing nations threatens the life of every young American. If that killer were one man, the United States would enlist every international means necessary to find him and bring him to justice. We would utilize every domestic resource that would help in our search. Opium derivatives are far more dangerous than one man, or even an army of murderers, for they threaten the American way of life and the American future. The time has long since passed for any halfway efforts on our part, or on the part of opium producing and transshipping nations; the stakes are too high.

Our first and most effective weapon is American manpower. If we can send over 500,000 men to South Vietnam to protect the right of self-determination for a nation of 18 million people who are not our own citizens, why is it that we send only 26 BNDD agents and six customs agents to all of Southeast Asia to fight the most fearful enemy ever faced by this Nation? American hopes to rid our country of narcotics abuse are pinned to 32 dedicated men, for we expect them to protect over 200 million Americans from opium production totaling over 1,400 tons each year. Can we really ask these men to carry alone the burden of a drug war which constantly threatens the internal security and well-being of the United States? Clearly, their combined efforts, no matter how skillful, can accomplish no more than minimal obstruction of the opium trade.

The first priority of the Congress should be the authorization of increased funding to train manpower for antinarcotics activities overseas and the BNDD agent training program should be expanded. This course, which consists of a 300-hour academic curriculum, covers all elements of special agent duties and is reinforced by over 300 hours of practical field exercises, undercover surveillance and raid techniques. It should be made available to foreign antinarcotics officials on a large scale. The Congress has recently approved President Nixon's reorganization of Federal narcotics law enforcement efforts, and the Drug Enforcement Administration was created on July 1, 1973. In a concerted effort to curtail opium and heroin production overseas, full funding for manpower training and DEA operations is of paramount importance. In my judgment, in the past, BNDD and Customs have always been inadequately funded given their wide-ranging responsibilities.

The first priority of DEA should be a new survey to determine the precise numbers of trained narcotics agents and customs officials necessary to deal most effectively with illicit drug traffic in each Southeast Asian nation. A further goal of this survey should be to establish the manpower-dollar ratio which will be most effective in stemming the massive illicit opium and heroin exports which originate in Southeast Asia and the subcontinent. It is obvious, in a critical transshipment area such as Hong Kong, that two BNDD agents and one secretary are simply unable to realistically impede the volume of drug traffic which passes through there each day. Deployment of more trained agents and effective utilization of increased expenditures can be facilitated through the rigorous implementation of bilateral narcotics control agreements which the United States has signed with a number of Asian nations over recent years. These agreements deal specifically with coordinated drug abuse law-enforcement efforts. They should enable us to request cosigners to accept our personnel and provide a vehicle for the exercise of supervision and support for their own local efforts.

Once we have established the optimum number of agents, Congress will have the responsibility of appropriating funds necessary to establish a comprehensive training program for the expansion of a trained corps of new agents. We should be prepared to expend an effort similar to that we introduced into our military training programs. An increased number of agents can do little if their training is incomplete and does not include all facets of narcotics law enforcement. However, time is of great importance, for each year the opium harvest grows larger and the traffic becomes more difficult to contain. If we can train a good fighting man for a shooting war in 13 weeks, surely we should be able to achieve an effective fighting man for the "shooting-up" war.

While DEA can pinpoint those areas in Southeast Asia most in need of newly trained agents, it is clear that a concentrated effort must be directed toward points of transit throughout the world. International air and seaports handle thousands of cargo tons daily with minimal supervision and inspection. This provides excellent cover for clandestine export activities. Huge quantities of opium and heroin are regularly smuggled through these transit points by traffickers who run little risk of being caught given the current level of antismuggling operations. In addition, trawlers, junks, and other nondescript craft carrying opium and heroin ply the rivers and harbors of Southeast Asia, furnishing a means of transport, which because of their number, is virtually impossible to limit.

A maximum effort must also be made by our newly organized DEA to locate and, with the aid of local authorities, shut down opium refineries which are scattered throughout

several of these nations. These portable workshops, resembling in many ways a street-corner hawker operation, are easily set up and dismantled using minimal time and space and are therefore extremely difficult to locate. Because of its bulk, it is easier to handle when it has been refined into morphine base. Ten pounds of opium produces 1 pound of morphine base. It is therefore logical that the trafficker will do his refining as rapidly as possible to facilitate easier handling of the finished product.

On a larger scale, the attention of Congress and President Nixon, as well as DEA, should be directed toward two specific areas of overseas antinarcotics effort. First, we must be unceasingly aware of the flexibility of drug traffickers in locating new sources of narcotics to fill the gaps created by increasing American success in controlling this traffic. Asia, Pakistan, Afghanistan, and India are all well suited by climate, labor-intensive economies and experience as growers of licit opium to become major targets of the illicit market.

The potential for the illicit market is intensified in Pakistan and Afghanistan because both nations lack control over tribal areas where there is centered opposition to the governments of those countries. President Nixon should assure these nations of our support for their efforts to halt illicit opium production, and encourage the substitution of other crops to replace poppy cultivation. These nations should be made aware that they pose a serious threat to international narcotics control efforts. We must encourage their governments to join efforts in effecting controls necessary to close in on the offenders.

Second, the Congress and President Nixon must support increased expenditures for international drug abuse law enforcement program administered through AID. Here at home, we spend a billion dollars on drug abuse and astronomical sums on the crime associated with drugs, while the executive branch programed only $42.5 million on international narcotics control activities in fiscal year 1974. AID funding for narcotics control enforcement efforts must be substantially increased to combat a drug flow valued over $5 billion.[1]

AID's request for antinarcotics efforts in fiscal year 1974 includes a decrease of more than $1.5 million from fiscal year 1973 authorization for Southeast Asia. At the very least, funding for our international narcotics control programs should be increased to $50 million, with the added funding channeled toward the Golden Triangle.[2]

U.S. military support to Southeast Asia greatly exceeds that which is devoted to the antinarcotics effort in that area. Troop levels exceed 40,000, while antinarcotics personnel is less than 50. The following chart details U.S. military and antinarcotics effort commitments in Southeast Asia and demonstrates the inequities in the allocations.

[In millions of dollars]

	Military assistance fiscal year 1974[1]	Agency for International Development international narcotics control[2]			Military personnel Dec. 31, 1972[1]	BNDD agents[3]	Customs agents[4]
		Fiscal year 1973	Fiscal year 1974	Net decrease			
Thailand	55.762	1.871	1.114	0.643	43,000	13	2
Japan	0	0	0	0	20,000	2	6
South Korea	238.789	0	0	0	38,000	1	0
Philippines	19.269	.300	.265	.035	15,000	5	1
Special fund:							
Vietnam	1,559.600	.500	.185	.318	24,000	3	1
Laos	311.200	2.079	1.500	.579		2	1
Total	2,284.620	4.750	2.961	1.565	138,000	26	11

[1] Department of Defense.
[2] AID budget presentation, fiscal year 1974.
[3] Justice Department.
[4] Bureau of Customs.

The United States plans to spend a total of $1,114,000 in Thailand—$643,000 less than last year's budget request—to handle an annual opium output presently estimated at 200 tons with a potential street value of more than $17.2 billion. In addition, since Burma is not an AID recipient and since Thailand is the transshipment nation for Burma's annual production of 400 tons, this $1.1 million is expected to fund controls for Burmese and Thai production. The combined output of these two nations—approximately 600 tons—is 10 times the amount necessary for enough heroin to supply American addicts for 1 year. In the war on drugs, we can hardly expect significant results when our commitment is insignificant.

President Nixon, former New York Police Commissioner Patrick Murphy, and many local law enforcement officials have stressed the importance of getting at the supply of drugs before it enters American borders. In his 1971 message to the Congress on June 17, 1971, on the Federal drug effort, President Nixon said:

"* * * it is clear that the only really effective way to end heroin production is to end opium production and the growing of poppies."

Commissioner Murphy detailed the difficulties faced by the street policeman dealing with the drug epidemic in testimony before the Senate Foreign Relations Committee, saying:

"What I do want to establish is that local police agencies cannot—I repeat cannot—effectively stem the flow of narcotics into our cities, much less into the veins of hundreds of thousands of young people. Only the national goverment can make truly effective strikes toward breaking the chain of distribution that leads from the poppy fields of the middle east and Indo-China into the bodies of wretched victims here in the United States * * *

"* * * Once opium poppies have been harvested abroad and placed into the channels of illegal trade five—or ten—thousand miles from our shores, the battle is already lost and thousands of American addicts are already doomed to a life of continuing misery, and often agonizing death."

Despite this fine rhetoric, we continue to place primary emphasis on internal efforts at control when we are daily confronted with unmistakable evidence that this approach can yield only limited success.

Control of drug abuse in this country rests on a major constriction of the supply, but our assault has been halfhearted. The risks faced by unscrupulous growers, refiners, exporters, shippers, and corrupt officials have been negligible. So long as those risks remain small, anyone interested more in money than morality is hardly threatened if he chooses to try his luck in this dirty business.

Trained manpower and adequate funding, backed up by a total commitment by this Nation, can win this war. It is unlikely any American will deny his support for a total effort to wipe this menace from our society, and it is this support which will ultimately yield success.

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[1] The U.S. will spend slightly over $3 million in Southeast Asia, $15 million to subsidize Turkish farmers who no longer grow poppies, almost $10 million on other opium-producing nations, and $5 million for the United Nations Special Fund on Narcotics Control. Another $9.7 million of the A.I.D. appropriation is "unprogramed to provide flexibility in operations which are vital to successful antinarcotics work.

[2] The Foreign Affairs Committee increased the authorization for international narcotics control from $42.5 million to $50 million in the fiscal year 1974 Mutual Developmental and Cooperation Act. This increase was based upon the recommendation contained in this report.

APPENDIX 1

STATEMENT OF ANDREW C. TARTAGLINO, DEPUTY DIRECTOR FOR OPERATIONS, BUREAU OF NARCOTICS AND DANGEROUS DRUGS, DEPARTMENT OF JUSTICE

Yesterday morning, the Jack Anderson column said the U.S. Government and Thai authorities were victimized into believing that 26 tons of opium were burned and that what was alleged to be opium was nothing more than cheap fodder mixed with 20 percent opium.

The Bureau of Narcotics and Dangerous Drugs has the major share of the responsibility for coordinating this matter with the Thai authorities, and we feel it necessary to respond.

The allegations in the article are totally inaccurate. Neither the Thai nor U.S. Government was duped with regard to the operation. The burning of the 26 tons of opium took place on March 7, 1972. The opium was contained in 319 sealed burlap bags, each weighing about 190 pounds. The bags contained 20 opium balls which were wrapped in leaves, paper, or plastic.

Contrary to what Mr. Anderson reports, the Thai Government did test the opium before buying it. And our chemist tested it before it was burned. There is no question: It was opium.

Mr. William T. Wanzeck, the BNDD Regional Director in Southeast Asia for the past 6 years, was present for the burning. He took the samples which were analyzed by Mr. Joseph E. Koles, a senior forensic chemist with the Bureau. There was no question in either man's mind that the sacks contained anything other than opium. Both officials also examined the security arrangements made by the Thai authorities and were highly impressed by the entire operation. Messrs. Wanzeck and Koles are here today and will be available to respond to your questions in their areas of responsibility, as will I.

As for Mr. Anderson, if the allegations which appeared in his column had been checked with the Bureau of Narcotics and Dangerous Drugs, we would have offered the same evidence we are giving you here today.

The Thai Government has stepped up its antidrug activities and is serious in its efforts to shut off the flow of drugs from Southeast Asia to the United States. The fact sheet which you were given with my statement attests to their diligence.

We didn't ask you to come here today just to listen to what we had to say. We also have something to show you. Please bear with us

for these brief excerpts taken from hundreds of feet of film shot during the burning operation.

With the facts that we have set forth here today, the Bureau of Narcotics and Dangerous Drugs calls on Mr. Anderson to correct the multitude of errors in his article. The American public is entitled to the factual version. Equally as important, Thailand, with its integrity at stake, is entitled to a clearing up of these irresponsible charges.

The maximum success of this joint effort is based on mutual respect and trust which has developed between the United States and Thai narcotic teams.

To allow such misinformation to go unchallenged would be to damage the Thai-United States crackdown on the flow of narcotics into the illicit world market, most particularly into this country. To allow it to go uncorrected is up to Mr. Anderson.

FACT SHEET—ALLEGATIONS CONTAINED IN THE JACK ANDERSON COLUMN OF MONDAY, JULY 31, 1972, AND THE REBUTTAL

ALLEGATION

(1) "The real story is that Thailand and, indirectly, the United States were hornswoggled into believing that 26 tons of opium were burned, when, in fact, most of it was cheap fodder."

(2) "Instead of loading raw opium, they pushed 100 mules with fodder, other plant matter, chemicals, and about 20 percent opium."

(3) "In all, the cagy dope peddlers passed off 5 tons of opium as 26 tons and pocketed more than $2 million from the fantastic hoax."

(4) "Either through corruption or stupidity, the Thai officials failed to test the huge mounds of 'opium' before they soaked it with gasoline and put it to the torch."

(5) "Only as the smell of burning molasses wafted through Chiang Mai did the Thais suspect they had been had. Then, it was too late to do anything but cover up their goof."

(6) "And cover up they did. They hastily recruited gangs of workers to bury the "hundreds of millions of dollars' worth of fodder and opium ashes."

FACT

(1) Test materials taken at random from the 319 bags scientifically proved the content was, in fact, crude opium.

(2) The BNDD forensic chemist, Joseph E. Koles, reports that the Thai opium samples contained no more debris and other plant material than is normally contained in balls of crude opium. The debris present came from the scraping of poppy pods during the extraction of the crude opium.

(3) Each of the 319 bags was tested and found to contain opium. There was no hint of any adulteration to the bags. The tests would have disclosed it. There was no $2 million transaction and no hoax.

(4) The film bespeaks the fact that each of the bags of opium was tested, both by the Thai Government and by a senior forensic chemist from BNDD.

(5) There was no smell when the opium was being burned due to the tremendous heat. However, opium does have a distinctively sweet odor which both BNDD representatives recognized during the sampling.

(6) A military bulldozer was used to scoop out a large trench prior to the burning. There was so little residue, however, that it could have been shoveled into a much smaller hole. No gangs had to be hastily recruited to bury the leftovers.

APPENDIX 2

HON. LESTER L. WOLFF,
House of Representatives,
Washington, D.C.

DEAR MR. WOLFF: Thank you for your letter of August 2, 1972. As you know, our Government has been working closely with the Royal Thai Government to stimulate increased activity in the narcotics control field. We feel that significant actions have taken place since Secretary Rogers and Thai Foreign Minister Thanat Khoman signed the memorandum of understanding in September 1971. In view of your interest in Thai drug control efforts, I am taking the liberty of enclosing a chronological summary of Thai actions in the drug field over the past year.

As for the burning of 26 tons of opium by the Thai Government on March 7, 1972, that action was an indication of their willingness to take significant steps to eliminate illicit drug trafficking in their country. In early 1972, the Thai Government embarked upon a comprehensive land resettlement project for two large groups of so-called Chinese irregular forces. These forces, in return for assistance in settling permanently, agreed to abandon their traditional involvement in the illicit drug trade and surrendered to the Thai Government all opium which they had (some 26 tons) at the time of the agreement.

The Government of Thailand is contributing $850,000 to the resettlement project, and the U.S. Government up to $1 million. Our contribution involved the transfer by AID of $1 million to BNDD as the executory agency for U.S. participation in support of this project. This action was taken pursuant to section 481 of the Foreign Assistance Act of 1961 as amended. That section states, in part: "Not withstanding any other provision of law the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as may determine, for the control of the production of, processing of, and traffic in, narcotic and psychotropic drugs. In furnishing such assistance the President may use any of the funds made available to carry out the provisions of this Act."

In March, the 26 tons of opium that were surrendered to the Thai Government by the Chinese irregular forces were destroyed in the presence of Thai officials as well as two U.S. BNDD officials. One of the U.S. officials present was a chemist who analyzed each of the sacks for morphine content. He found that all of the samples contained unadulterated gum opium typical of the opium found in the area.

We feel that U.S. support for the resettlement project is warranted. The project provides the Chinese irregular forces in question with an accepted legal status in north Thailand, and it offers them an economic alternative to illicit drug trafficking. Since these groups traditionally have been among the major traffickers in Southeast Asia, we are hopeful that this agreement will help reduce the flow of drugs through Thailand. Also, it should contribute to a stabilization of the security situation in what is a troubled and lawless area of Southeast Asia. Moreover, as a result of this project, 26 tons of opium, a portion of which might have otherwise entered the international trade, were summarily eliminated.

I hope that this information will be of assistance to you. If I can be of any further assistance, do not hesitate to write me again.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

APPENDIX 3

COMMITTEE ON FOREIGN AFFAIRS,
Washington, March 15, 1973.

HON. WILLIAM P. ROGERS,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: The purpose of this letter is to bring to your attention the existence of a situation in Japan which facilitates the processing of heroin in Southeast Asia—heroin which ultimately finds its way to the United States.

A staff report entitled "The U.S. Heroin Problem and Southeast Asia," released by the Committee on Foreign Affairs on January 11, 1973 states that Japan is a major producer of acetic anhydride, an essential chemical used in the conversion of morphine base into heroin. Noting that the Japanese Government presently neither restricts, controls, nor monitors the chemical's export, the report recommends that the U.S. Government should request the Japanese Government to establish controls and restrictions on the export of acetic anhydride.

As you are aware, the "Golden Triangle" region of Southeast Asia produces the bulk of the world's illicit opium. That opium, however could not be converted to heroin without the use of acetic anhydride, a chemical whose major regional supplier is a friend and ally of the United States. Given the disastrous effect heroin addiction has had on our urban areas; it would not seem unreasonable for our government to insist that Japan make an effort to control its export of this vital substance.

We would appreciate your reaction to this recommendation.

Sincerely yours,

ROBERT N. C. NIX,
Chairman, Subcommitee on Asian and Pacific Affairs.
LESTER L. WOLFF.
MORGAN F. MURPHY.
ROBERT H. STEELE.
ALPHONZO BELL.

DEPARTMENT OF STATE,
Washington, D.C., April 4, 1973.

HON. ROBERT N. C. NIX,
Chairman, Subcommittee on Asian and Pacific Affairs, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Further to my letter of March 27, 1973, I would like to comment about the suggestion contained in your letter of March 15, 1973 (also signed by four of your colleagues) concerning Japan's establishing controls over the production and exportation of acetic anyhydride. These comments are made on the basis of a report from our Embassy in Tokyo and the Department's own inquiries into the subject. I am sending this reply to each of the signers of the letter.

It is true that Japan does not control the production or exportation of acetic anhydride. Because less than 1 percent of Japan's acetic anhydride production is exported, Japanese officials are reluctant to impose burdensome controls. As a matter of fact, for similar reasons the United States imposes no specific controls on the exportation of this product. Acetic anhydride is freely exportable from the United States except as part of the general prohibition on exports to North Korea, North Vietnam, Cuba, and southern Rhodesia.

Acetic anhydride is a common chemical, produced in large volume and so much in demand for legitimate purposes such as textile manufacturing and photo developing that attempts by industrial countries to control the trade would be difficult if not impracticable. France has attempted such controls without success.

Illegal consumers of acetic anhydride in Asia could elude export controls by making fake statements of destination or by arranging one or more transshipment points along the busy trade routes of the region.

After reviewing these limitations on the probable effectiveness of a production or export control policy, we believe better results are likely to be obtained by monitoring imports of acetic anhydride into countries such as Thailand, Laos, and Hong Kong where heroin is made. U.S. narcotic agencies have already established communications with these governments, as well as the Japanese Government, and exchange intelligence con-

cerning firms suspected of ordering or selling acetic anhydride for heroin production.

If I can be of any further assistance to you in this matter do not hesitate to write me again.

Sincerely yours,

MARSHALL WRIGHT,
Acting Assistant Secretary for Congressional Relations.

Mr. MONDALE. I yield to my distinguished colleague from New York.

Mr. BUCKLEY. Mr. President, I thank the Senator from Minnesota. I am very happy to be a cosponsor of this very important amendment.

I applaud both its spirit and its purpose. It represents firm action by the Senate, and it also is fair action by the Senate. It is not aimed at any one party, but establishes a set of principles which must guide our delivery of aid to countries that authorize the commercial production of opium.

I think it underscores the seriousness with which we view the unfortunate decision to renew commercial growing of opium poppies in Turkey. The unfortunate fact is that heroin made from that production in Turkey in the past has found its way into illicit channels and has killed more New Yorkers than the war in Vietnam.

Literally hundreds of thousands of lives have been crippled, have been ruined, by this scourge and we, in the Senate, cannot stand by without taking those legitimate measures that are available to us to underscore the seriousness with which we view the situation.

I believe it is also important that we keep in mind the long history of friendship we have with various countries that have engaged in or do engage in or will be resuming or have announced their intention of growing poppies, most particularly Turkey.

We have to keep in mind Turkey's strategic contribution to the NATO Alliance which, after all, we have entered into not merely for Turkey's benefit but, most particularly, ours.

The Turkish people understandably are proud, and would have been understandably sensitive had we come up with legislation aimed particularly at Turkey or which sought to impose conditions different from those conditions that we have imposed on other countries, such as India.

The Turkish people are conscious of the fact that India is now producing large quantities of opium for legitimate markets, medicinal markets, and they ask that we allow them, without sanctions, to resume the growing of opium poppies with safeguards.

I believe that this proposal is a fair one because it allows the Government of Turkey the opportunity to demonstrate that they can impose the safeguards such as those existing in India that can satisfy us that none of their opium will be reaching our shores through illegal channels in the form of heroin.

The provision making the cutoff of aid mandatory as of January 1, 1975, will have the effect of providing time for diplomats to do their work, time to examine the machinery, to set up machinery to see if it is physically possible to provide the kind of safeguards that are required so that we do not have a repeat of the situation that plagued us just a few short years ago.

So I believe this to be a fair proposal. It is a firm proposal. It is one in which Congress is asserting its prerogatives in this area. It is one which has built-in safeguards, not only safeguards in the form of the requirement of affirmative decision on the part of the President, but also for the periodic reporting by the Director of the Drug Enforcement Administration.

Under the circumstances, I hope that our colleagues will vote overwhelmingly to support this amendment.

I would like, however, to ask the Senator from Minnesota if he might consider one small modification. It seems to me that it is of particular importance to Congress that we have not only the President's certification that safeguards are adequate, but that we have detailed information as to the nature of those safeguards so that the Senate and the House of Representatives may make an independent assessment.

I would, therefore, like to recommend—I ask the Senator from Minnesota if he would be willing to insert—the following language in the third line from the bottom of the first page, after the sentence that ends with the word "markets", "Such certification shall be accompanied by a detailed description of such safeguards."

Mr. MONDALE. Mr. President, if the Senator will yield, I think that amendment is a good one and I modify my amendment accordingly.

Also while we are at it, one of my colleagues pointed out at page 2 in paragraph 3, subsection (2), the amendment states:

> The Congress adopts a concurrent resolution finding that any country has not effectively banned the growing of opium poppies and that such country is not effectively preventing opium or its derivatives.

And so forth.

The PRESIDING OFFICER. Will the Senator from New York send the modification to the desk?

Mr. MONDALE. I am sure that should be in the conjunctive and I modify my amendment to substitute the word "or" for the word "and" and in that regard I will send the copy of the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

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

Mr. MONDALE. I yield.

Mr. TOWER. There is no intent to prohibit the use for medicinal purposes, is there?

Mr. MONDALE. What we are interested in doing here is keeping opium or opium derivatives out of illicit drug use.

Mr. TOWER. But there is no intent to prohibit the use for medicinal purposes.

Mr. MONDALE. That is correct.

Mr. BUCKLEY. Mr. President, it is important for people to understand that the fact that a cutoff in foreign aid will not take effect until January 1 of next year and will not result in a reduction of opium this year in Turkey It is my understanding that the plans announced by the Turkish Government contemplate planting the fields in October and that crop could not be reaped until the following June. Therefore, the provisions of this legislation would either take effect or not take effect before a single additional pound of opium is produced in Turkey. It is important for Senators to understand that.

It is a firm statement of policy and does provide maneuvering room within which our Government and officials of Turkey can seek to come up with some provision to assure us that none of that poppy will find its way to our shores to destroy more lives.

I thank the Senator for yielding.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HARTKE. Mr. President, I congratulate the Senator on the amendment and I hope it is adopted by the Senate.

Mr. TOWER. Mr. President, the decision to ban the planting of the opium poppy taken by the Turkish Government in 1971 at the urging of our Government was a major step in reducing that availability. It was a courageous step taken by a Turkish Prime Minister who profoundly believed that it was unworthy of a modern country to be involved even indirectly in the production of dangerous narcotics which leaks into the illegal world market. It was a decision that was not popular nor, indeed, ever well understood in Turkey and it was one that was taken at a time when Turkish democratic processes were partially suspended.

The most recent decision of the Turkish Government is one taken by a fully democratic government and that decision is no doubt popular because it represents in the eyes of many Turks a reassertion of sovereignty. It is, like many popular decisions, one which many of Turkey's friends both here and there think is unwise. I believe that it was a foolish decision by a weak and divided government. Although one can understand the domestic political and primarily nationalistic pressures to which Mr. Ecevit was responding, I think it is fair to say that the Turkish Government has chosen the low road of narrow partisan political advantage and has ignored the welfare of the rest of the world.

And now comes the relevant question: What do we do about the Turkish decision? I submit that our interests lie first and above all in choosing a course of action that prevents to the degree possible the entry of additional supplies of heroin into our cities. A second objective is to accomplish this while preserving our present security alliance relationship with Turkey. It is important to understand that although Turkey is a sovereign nation dedicated like other sovereign nations to the pursuit of its own interests, Turkish stability, democracy, and membership in NATO have

been an important asset to the U.S. Government as we have pursued our peacemaking efforts in the eastern Mediterranean.

In light of the two objectives I have just cited, I believe that it would be a mistake for this Government to embark on purely punitive measures such as an outright cancellation of our important security assistance program to Turkey. Once we have taken that step, we frankly will have lost any leverage we may have without accomplishing our objective. I believe that this Government should put the Turkish Government on notice that our security relationship is in jeopardy and that our future relationship will depend on the Turkish Government's performance in preventing the leakage into illicit channels of opium which will now be grown in Turkey.

I cannot and do not believe that Prime Minister Ecevit and the responsible leaders of Turkey want to poison the citizens of our own or any other society. It is incumbent upon the Turkish Government to insure that it establishes limitations on poppy growing and sufficient controls over the poppy crop to insure that it will not happen. I am suggesting in other words, that now that the Turkish Government has made a decision to grow poppies, we should seek to achieve clear assurances to the international community that crop limitations and other controls will be adequate to prevent the leakage into illicit channels that many of us fear. Indeed, the United States may well be able, acting both directly wtih Turkey and through international agencies to assist the Ecevit government appropriately in establishing a workable, effective control system. As I indicated earlier, the United States would in any case reserve the right, and have the opportunity, to modify other important aspects of our mutually beneficial bilateral relationship—I am speaking primarily of the security dimension, of course—if we found subsequently that the Turkish Government either could not or would not institute a viable poppy control system.

Mr. President, I might note that it is a little ironic that the democratic processes had been suspended in Turkey when they agreed to ban the growing of poppies; once they got democracy back they voted the poppies back in.

Some have made a big to-do around the Senate floor many times, about doing business with authoritarian governments. A lot of times we think we ought to restrict aid to any government that is authoritarian, particularly if it is a right-wing dictatorship.

I think it is very ironic, then, that now we are going to impose a punitive measure on a country that is responding to the democratic process. The question that is raised in my mind is: Will the passage of this amendment stop the illicit traffic in opium poppies? I suggest that it will not. I do not think it will result in Turkey being pressured into reimposing the ban on raising opium poppies.

What I do fear is that it might result in such a resentment of American intrusion into the domestic affairs of that country that they might become more intransigent in the matter of negotiating with us on preventing the opium from getting into the illicit market.

I was privileged to study at the University of London under a gentleman by the name of Frank Chambers, who taught me of domestic influences on international relations. I think we have to have some insight into domestic political considerations of various countries around the world in maintaining and establishing our day-to-day relations with them.

We have to understand if, indeed, we endorse democratic government, and have to respect the response of such a government to a popular mandate.

Of course, this amendment does not apply specifically to Turkey. It has been "de-Turkeyfied." However, I think that if we look at it more specifically, it does apply to Turkey, even though Turkey is not specified.

Mr. President, as has been pointed out by my friend from New York. India grows opium and we buy it from them. We buy it for medicinal purposes. It is grown in Mexico; it is grown in Pakistan; it is grown in Thailand; it is grown in Burma. Look at the number of countries that are involved. I do not know how many more. I just named those countries I could recall.

I think the amendment is much improved over the original version because it does provide an escape clause for legal or medicinal opium.

I am afraid that we might create a climate in which this situation could not be negotiated with the Turks.

Mr. President, nobody despises the dope trade worse than I do. I think it is terrible. But I do not believe that this amendment is really calculated to stop it. It may, indeed, just exacerbate the problem and create a situation in which a country will not be willing to deal with the United States because it feels it has been pressured in its domestic affairs by the external force of the United States. Therefore, I would hope that the amendment will not be adopted.

Mr. President, it is a difficult amendment to vote against. I do not know how I am going to explain it to my constituents, I know I expect to get letters—"Dear Pusher", or something like that—because it is a difficult thing to explain. But I think we have to keep our heads about us. I think we have to be statesmanlike.

I applaud the motives behind this amendment, but I do not think the amendment will do what its sponsors would like it to do, but, indeed, the amendment may make the situation even worse.

Mr. PERCY. Mr. President, I concur with my distinguished colleague from Texas. I must say I will have just as much of a difficult time explaining my vote on this amendment in Illinois as he will in Texas.

I did floor manage and sponsor the Drug Abuse Act of 4 years ago that the administration supported and sponsored. We fought through many, many provisions. I was so adamant in wanting to do everything possible to stop illicit drug traffic, stop the pushers, to take the profit out of this business, that I even voted for a provision that I considered highly repugnant—the no-knock provision—which we have just now, by a decisive, overwhelming vote of 2 to 1, repealed. Many of us at that time said we were deeply concerned about going that far, and we would watch it very carefully. But we knew we had to stop the drug traffic.

Mr. President, I share the concern of the distinguished Senator from Texas in feeling that this is possibly the wrong way to do it. We are not disagreeing at all in objectives. We all want to see the drug traffic stopped. But the question is: Is this the means, is this the right way, to do it? It is almost an analysis of human nature.

It is a question as to whether or not, by the action we take, we defeat the very objective that we are trying to work toward.

Mr. President, there can be little doubt that the decision by the Government of Turkey to lift the ban on opium production in that country constitutes a serious setback to the international campaign against the scourge of heroin addiction, a medical and social disease which has afflicted not only the United States but also many other nations of the world. As a Senator who has worked actively to support the creation and funding of a full range of antidrug programs, both domestic and international, I join with the Senator from Minnesota (Mr. MONDALE) in deploring this action by the Turkish Government. I am compelled, however, to oppose the amendment through which the Senator has proposed to terminate American military and economic assistance to Turkey, because in my view the Senator's proposal fails to meet the critical tests of both practicality and principle.

On the level of practicality, I believe that this amendment would fail to achieve its only possible valid purpose, which is to induce the Turkish Government to reverse its decision. What the amendment says to the leaders and people of Turkey is that if they do not do as we wish, then we will in effect suspend our present and planned relationship with them. If we pause to realize that the decision to resume opium production arose, at least in part, from a general feeling among the Turkish people that their country was being manipulated by the United States, then we can only expect that an explict threat to cut off aid—rather than causing a reversal of the Turkish position—will serve no other purpose than to inflame emotions still further, to freeze the Turkish position into intransigence, and to diminish substantially the likelihood that a satisfactory resolution of this problem will be achieved. In short, Mr. President, I would assert that this amendment fails to meet the practical test of basic effec-

tiveness and that it would in fact work against the purpose which it purports to serve.

Second, on the level of principle, this amendment represents an abuse and a distortion of the basic rationale of our economic and military assistance programs. Just as we should not give foreign aid as a bribe, neither should we threaten its termination in order to coerce others to our view. Our economic and military assistance activities have clear and valid purposes and those purposes should be upheld. On the economic side, our aid programs—far less than being a donation made out of magnanimity—are a vital part of our contribution, as an economic power and as a responsible world leader, to the creation of a sound global economy which serves the interests and needs of people in all nations. To allow our economic assistance efforts to fall into use as a political stick would discredit and jeopardize its very purpose.

On the military side, our assistance programs are directed toward the maintenance of a stable balance of forces in each region of the world. The Senator from Minnesota has asserted that these needs can be served without the continuation of a military assistance program in Turkey, and perhaps that is so. But the place to test that argument is in our consideration of the military assistance program itself, rather than in connection with the logically unrelated subject of Turkish opium. If military aid to Turkey is no longer necessary, let the Senate determine that deliberately through discussions with the Government of Turkey, through hearings, debate, and explicit decision—not through sudden retaliation against an unwelcome Turkish action.

In closing, Mr. President, I feel bound, as one who supports the continued alliance and friendship of the American and Turkish people, to offer a considered warning, in the form of a prediction, to the Government of Turkey. Based upon my experience as an elected official who maintains close contact with his constituents, I am certain that the American people are going to find it increasingly difficult to understand why they should be called upon to pay for assistance to a nation which has consciously decided to resume the production of a product which has done such damage to the United States and, in fact, damage to the human race throughout the world.

I am well aware that, within the context of the domestic politics of Turkey, this issue has been couched as a challenge to Turkish national sovereignty. But I would call upon the responsible leaders of Turkey to voice the important truth that this issue has far-reaching international ramifications and that, far less than being a test of Turkey's independence, it is a test of the willingness of Turkey to play a valuable and respected role in combating one of the most serious problems confronting the world community.

In my judgment, it is not so much a question of national manhood but, rather, whether we can all work together to curtail production of a product that robs mankind of his God-given gifts of reason, creativity, and productivity.

I oppose the pending amendment only because I do not feel that it will accomplish its stated objective.

Mr. MONDALE. Mr. President, all this amendment does is to ask the Turkish Government to do what they claim they want to do. It does not ban the legal production of opium. It only terminates economic and military assistance if opium produced ends up in the illicit trade.

So that insofar as the issue of defending the nationalistic sensibilities of the Turkish Government or other governments is concerned, all we are asking is that we be assured, with convincing safeguards, that they are doing what they claim they wanted to do in the first place.

The second point is that this is not just a matter of domestic politics in Turkey. This is a question of whether hundreds of thousands of American young people are going to be hooked by the most deadly drug of all and whether those young people are going to be destroyed, whether this country is going to be visited with billions of dollars of crime costs and all the frustration and despair that flow from those circumstances.

If friendship with another country means that you must remain silent with an abuse that would visit such havoc on our young and our country, then it seems to me that the purpose of foreign affairs is only one way: We provide aid—in this case, in this year, $232 million; they provide illegal drugs for our kids. I submit that that is not much of a bargain.

I want to be friendly to the Government of Turkey. I hope we can be. But I think they must realize the gravity and the seriousness of what is going on.

A few years ago, when the administration took a tough position and when we passed legislation dealing with this matter, both the Turkish Government and the French Government began to cooperate, once they realized how serious it was to us in the United States. The Turkish Government agreed to suspend all opium production, and the French closed down the illicit morphine laboratories in southern France. Both governments resisted those moves and only acted when they realized that we considered this a terrible infringement on the health and the life of American society.

If friends cannot bring up something as fundamental as that, then one wonders what foreign policy is all about.

We routinely cut off aid to a country which nationalizes a U.S. industry without compensation. If a U.S. industry in Chile is taken over, we cut off the aid to that country. Perhaps that is the right thing to do. All we are saying is that if that is a good enough reason to terminate aid, certainly inflicting heroin addiction upon hundreds of thousands of American young people—and that is what has been happening—is a legitimate reason for the United States saying, "If you are going to do that, you are not going to get $232 million from the U.S. Treasury this year."

That is all this amendment seeks to do.

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

Mr. MONDALE. I am glad to yield.

Mr. PASTORE. More than anything else, it is a breach of trust, is it not? We had an agreement that if we gave them a certain amount of money, they would not plant the poppies.

Mr. MONDALE. That is correct.

Mr. PASTORE. After they have used up the money, they are going to begin planting the poppy again. They say, "We have a political situation here; it is a controversy." Then the administration comes along and says, "We need them because it is the anchor of the south and part of NATO." We always get this gobbledegook.

The fact remains that the American taxpayer is always being taken for a sucker.

Mr. MONDALE. That is correct.

In the Middle East War last fall, when NATO was being tested, the Turkish Government permitted the Russian planes to overfly Turkey, but would not permit the American planes to operate there.

This is not an anti-Turkey argument. We want our kids protected.

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

Mr. MONDALE. I yield.

Mr. BAKER. I thank the Senator for yielding.

Mr. President, I intend to support the Senator's amendment, the purpose of which is to dissuade the Turks from planting opium poppies or exporting opium to the United States. I believe it is a good amendment, proposed at the right time; and that it will have the desired effect.

I become a little concerned about this business of looking upon aid as if it were a right. The United States has a continuing and permanent obligation to supply a particular level of foreign aid to many nations, and we ought not tinker with it. It ought to be independent of politics.

I think about some of our Federal agencies, and I think of the alacrity with which they cut off Federal funds to our States and cities and counties because they do not have the right billboards, the right speed limits, or whatever it happens to be. We do not have any compunction about doing that. We let that be done by some anonymous bureaucrat whom we cannot find and whom we cannot vote for or against.

I am not in the least concerned about the prospect of cutting off foreign aid because a nation undertakes something that is inimical to the best interests of the United States. We are a big country, a strong country, and we ought to use our strength cautiously and with consideration and humanity. The Turks should use caution and consideration and humanity as well in deciding to resume the production of this crop.

I have nothing but respect and great admiration for the Turks. Turkey is a great country and it has come a long way, but the United States will be severely affected by this new action.

I think this is the right action for the Senate to take, at the right time, in the right way. I hope we do not dilute the impact of the Mondale amendment by trying to rationalize it away.

Mr. MONDALE. I thank the Senator.

Mr. President, I ask unanimous consent that the names of the Senator from Maine (Mr. MUSKIE), the Senator from Delaware (Mr. BIDEN), and the Senator from Iowa (Mr. HUGHES), be added as cosponsors of the amendment.

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

Mr. BUCKLEY. Mr. President, I should like to address myself to a couple of the arguments against the amendment that were advanced by the Senator from Texas (Mr. TOWER) and the Senator from Illinois (Mr. PERCY).

In the first instance, we were reminded of the domestic political concerns and problems and rights of the Turkish Government. I very much sympathize with the attitude of the people of Turkey. They do have sovereign rights, and we have no right to coerce them.

On the other hand, I would hope that the officials and the people of Turkey would also understand that we have our domestic problems. One of our greatest domestic problems is to fight back and contain the catastrophe of the drug addiction, the drug influx, that we have in this country, which has destroyed so many of our young men and women.

We in this body have our own domestic problems, our own domestic responsibilities; and I believe we have an affirmative duty to take such measures as are required to prevent the reappearance of heroin in our cities, our schools, our daily lives—that, Mr. President, is the only domestic problem that I care about.

Second, it has been stated that this measure will be counterproductive, that, somehow or other, it will destroy the ability of our Government to negotiate with the Turkish Government to come up with some sort of arrangement to our mutual satisfaction.

I think it is clear that the decision by the Turkish Government to resume the commercial production of poppies demonstrates that something is wrong about the existing pattern, the existing approach. What the pending amendment specifies is not at all unreasonable. In fact, we are inviting the Turkish Government to do precisely what the Turkish Government insists they will do—namely, to impose the kind of safeguards that exist in countries such as India, which have been effective, which have resulted in lawfully grown poppies, opium, channeled into lawful channels.

So, Mr. President, I believe that this is responsible legislation. I have too high a respect for the good will and good intentions of Turkish officials to believe that they will pout at the adoption of this amendment, rather than understand our own pressing domestic problems and come up with creative, useful approaches to the containment of the poppy that is grown, if indeed it is grown.

In fact, I am pessimistic that it is possible to have satisfactory safeguards if the old style of production is resumed—namely allowing thousands and thousands and thousands of farmers to scatter little plots of poppies over hundreds of miles.

On the other hand, there certainly must be a way in which Turkey, by revising her present form of agriculture could resume the production of opium poppies for legitimate purposes.

In any event, the door is open for fruitful negotiations and, if by the end of this year, we fail to be satisfied that the safeguards will, in fact, work, where they have not in the past, then we will do what we have every right to do, and that is to keep our dollars here at home.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, this is one of those amendments like mother love, you are in trouble if you vote against it.

I think we ought to take a practical look-see at this approach, and I am one Member of this body who has never voted for foreign economic aid in the nearly 20 years I have been here, and I never will.

Suppose this amendment passes and we deny Turkey the foreign aid that we have been giving her, and then suppose Turkey says she does not care and she is going to keep on growing poppies, and she keeps on growing poppies and they keep on turning into heroin sold all over the world, that is, including the United States.

I think we have to remember this, we do not have many friends left in this world, and particularly on the southern border of NATO we depend upon Turkey and Greece.

Now, we are already doing everything in our power to lose the friendship of Greece and I think by this act we are going to lose the friendship of Turkey, and once we have lost those two countries I think you can kiss goodby to the effectiveness of NATO, because the Soviets now literally ring the Mediterranean with land-based aircraft, and giving the Soviets one or two more countries is going to make the operation of our 6th Fleet absolutely impossible, and it is almost at that point now.

So while I can certainly understand the intention of this, I think it is a wrong step.

If we are going to take this route I would suggest we look at our friendly country to the south of us, Mexico.

I have been talking about the poppies grown in Mexico so long that I cannot remember when I started, and nobody pays any attention to it.

I think frankly, not being an expert on the subject, the biggest source of heroin is Mexico, yet we have not threatened Mexico with anything. We have just desalted all the water in the Colorado River that rightly belongs to Arizona and the other lower basin States. We spent millions of dollars to do that, and yet she continues to grow poppies, and if anybody doubts that, I will fly him down in an airplane and point out poppy fields.

Every once in a while they burn one.

Now I do not think any man in the world likes Mexicans any better than I do, but if we are going to start knocking other countries, let us knock them all. This might be a good way to do away with foreign aid.

Mr. BUCKLEY. Would the Senator yield?

Mr. GOLDWATER. I would be happy to.

Mr BUCKLEY. This amendment applies to all countries that engage in the illicit growing of poppies; therefore, it would not apply to India. I do not believe there is any lawful growing of poppies in Mexico.

Mr. GOLDWATER. What is an illicit growing of poppies?

Mr. BUCKLEY. The Government of Turkey is saying it is now lawful for farmers in certain provinces to plant the poppy seed.

We are saying only, "If you want to do that, make sure you have safeguards to prevent it from entering illegal channels."

So that I do believe, with all due respect to my friend from Arizona, he is talking about switching apples and oranges, because this would apply to any nation anywhere in the world that engages in unlawful growing of poppies.

Mr. GOLDWATER. If the Senator wants to apply illicit, I think growing poppies to be made into heroin is about as illicit as we can find.

It is about as wrong as can be done, but I do not think it is our business to tell Turkey or Mexico, or Africa or any place, what they are going to do about what they grow, any more than they may not like the fact that we grow lemons, because we do grow lemons. We may not grow lemons illicitly, but they may not take that view. I think it is a wrong approach.

I can understand the concern about dope and marihuana and heroin. I would have to admit that my section of the United States probably has a bigger problem than any section of the United States except New York City and the big eastern cities.

The answer there, I might suggest, is not to punish the Turks, but to punish the people that do it in this country.

I do not think anybody in this body can defend the way this country and the way the States and cities have prosecuted those people who are guilty of the illicit traffic in dope. If we start getting tough about these things, I think we can do a better job controlling it. We are not going to control heroin coming into this country by telling Turks what they can or cannot do. I think they will turn around and tell us what we can do.

Mr. BUCKLEY. In fact, we have historic experience about what happens when they ban heroin because the supply of high-grade heroin dwindles, there is cause and effect on that.

I submit we cannot tell the Turks or any other country what to do. We can determine what we will do with our own dollars and our own voluntary aid programs.

Mr. GOLDWATER. The Senator is talking to one completely opposed to foreign economic aid, so if the Senator can devise a way that we can confine illicit poppy growing in every country in the world I will go on an amendment, and we can eliminate some economic aid.

I do not think this is the way to do it, threatening the southern flank of NATO. I think that is very important to consider.

If we do not have strength in the Mediterranean, we have lost that part of the world. I do not think this is going to solve our poppy problem at all.

I say we ought to look at some of these other countries and let us put the penalty on them and give them the publicity not just putting it all down on the heads of the Turks.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. GOLDWATER. I am through.

Mr. WILLIAM L. SCOTT. Mr. President, I share the concern that the distinguished Senator from Arizona has expressed with regard to our NATO allies because it is my understanding we only have a few thousand troops in Turkey. We have an American commander of the Turkish and Greek military over there. It is quite a contrast with what we have in Germany and some of the other countries in Europe.

Turkey is cooperating with us in a military way. Turkey has proved its friendship to the United States in Korea when we had forces from various nations over there fighting with us under the auspices of the United Nations and I do not think we should forget this function.

I would hope some method can be found under which the legal drugs that this country needs might be obtained from Turkey.

I do not know but what Turkey has been a much better friend to our Government than India. It has been mentioned that we get our legal drugs oftentimes from India.

I would hope something can be worked out and yet I am concerned, as the Senator from New York (Mr. BUCKLEY) has mentioned, with the illegal traffic in drugs, and I am sure every Member of this body is concerned about that.

My inclination is to vote for the amendment with the hope that the administration can work something out with Turkey under which they will attempt not to divert anything that they grow in Turkey to illicit drug traffic, and we might do it under some supervision whereby it will be channeled into legal channels.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I send to the desk an amendment to the amendment of the Senator from Minnesota and ask it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read, as follows:

An amendment to Amendment of Mr. Mondale and others as follows:

On page 2, strike subsection (3) and all that follows and insert in lieu thereof the following:

"*Provided:* That the President may waive the provisions of this subsection (c) if he finds and determines and reports to Congress that the national security interest of the United States so requires."

Mr. TOWER. Mr. President, I think that this waiver is important. Much has been said about the fact that we give aid to Turkey, and, indeed, to other countries, that they should not expect as a right. But I hope, in respect to our military aid to Turkey, that nobody thinks we do it for some altruistic reason. We do it because it is in our national interest.

Turkey spends 30 percent of her annual budget for military purposes. We spend only 5.9 percent of ours. That 30 percent, plus the assistance she gets from the United States, makes her an effective ally on the southeastern flank of NATO.

It seems to me highly unlikely that the Soviets or the Warsaw-backed nations would ever try to strike at the NATO allies through Central Europe, but they are already beginning to envelop us on our flanks. To willy-nilly deny military aid to Turkey would be to actually diminish the military posture of the United States, and make us less able to maintain our defense perimeter as far from our own shore as possible and as close to a potential enemy's shore as possible.

Turkey keeps track of Soviet naval movements in that area, among other things. The Soviets and the Turkish have a naval presence in the Black Sea, which we do not have. The area, of course, is strategically located.

I would think that we would think twice before we would arbitrarily deny military assistance to Turkey, when it is in our national interest that we give military assistance to Turkey.

What we are saying is, "If you do not do what we want you to do, we will do something inimical to our own national interest." That is what we are saying by the Senator's amendment. Therefore, Mr. President, I have offered this amendment, which would allow the President to waive the provisions of the subsection if he finds and determines and reports to Congress that the national security interests of the United States require the waiver.

Mr. President, this further deletes the provision requiring the concurrent resolution on the part of Congress, and makes the matter the responsibility solely of the President. I would point out that the provision for the concurrent resolution is redundant in any case, because according to section 617 of the Foreign Assistance Act, Congress already has the authority to suspend any such program. I shall read the pertinent provision:

Assistance under any provision of this chapter may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this chapter shall remain available for a period not to exceed 12 months from the time of termination of assistance under this chapter, for the necessary expenses of winding up programs related thereto.

So that authority is already reposed in the Congress of the United States.

Mr. President, I hope, in the interests of the security of the United States, that my amendment will be adopted.

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

Mr. TOWER. I yield.

Mr. COOK. I wonder if I could conceivably suggest any time limitation on the Senator's amendment.

Mr. TOWER. I will be glad to agree to a time limitation on my amendment. Thirty minutes?

Mr. COOK. 30 minutes; 15 minutes to a side?

Mr. TOWER. 15 minutes to a side.

Mr. COOK. Mr. President, I ask unanimous consent that, on the pending amendment, there be a time limitation of 30 minutes, to be equally divided between and controlled by the proponent of the amendment, the Senator from Texas (Mr. TOWER) and the opponent of the amendment, the Senator from Minnesota (Mr. MONDALE).

The PRESIDING OFFICER (Mr. STEVENS). Is there objection?

Mr. MONDALE. Mr. President, reserving the right to object, would it be appropriate at this time to propound an agreement on the amendment itself?

Mr. TOWER. I do not think that would be appropriate at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky? Without objection, it is so ordered.

Mr. COOK. Mr. President, upon the completion of the time limitation, I ask for the yeas and nays on the amendment of the Senator from Texas.

The yeas and nays were not ordered.

Mr. MONDALE. I ask for the yeas and nays on the underlying amendment.

The yeas and nays were not ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, with the time not to be charged to either 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. COOK. 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 ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Minnesota requested the yeas and nays for the underlying amendment also. Is there objection to ordering the yeas and nays on the Mondale amendment? Without objection, the yeas and nays are ordered on that amendment as well.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, we are in the middle of a very serious negotiation problem with the Turkish Government. They have just announced that they are going to break their agreement of a few years ago, and not only reform but expand opium production, much of which will surely end up in the illicit drug traffic and in the form of heroin addiction in the United States.

The Government of Turkey has just released several of the top drug smugglers and pushers who were the principal figures in the pre-1971 drug rackets, and they are back on the streets, ready to resume business. They have just removed from office the top law enforcement officer in Turkey, who was trying to do something about suppressing the illegal drug traffic in that country.

In the face of that serious situation, to accept the Tower amendment, which guts the amendment designed to influence the Turkish Government against these acts, it seems to me, is a signal saying, "Everything is all right, the green light is on," because we view our military interests in Turkey to be so important that no matter what it costs us, and no matter what it does to our young people, that is what is basically important; and we do so in spite of the fact that just this morning, in the New York Times, the Foreign Minister of Turkey is quoted as saying that even if we cut off aid, they will in no way dismantle or reduce the bases in Turkey.

Let me read what Mr. Gunes said in Ankara yesterday. He said:

> In an interview here, Foreign Minister Turan Gunes said that even if Washington cut off aid to Turkey, as some Congressmen had threatened, Ankara would not "change the status" of about two dozen vital military bases maintained here under the joint command of the two North Atlantic Treaty Organization allies.

In other words, the Turkish Government has made it clear that even if we cut off aid, those NATO bases will continue to be in operation. So, despite the fact that we have this statement from the top foreign ministry officer of Turkey, we would say, "Oh, never mind, even though you are going to leave the bases in, the aid will still keep coming, and we have gutted the amendment that was designed to protest what was going on in Turkey today with respect to opium and heroin."

It would destroy any hope for negotiating a reasonable agreement with the Turkish Government.

Second, the standards under the amendment invoke the standard of national security. That is a standard that cannot be defined, but we have seen some indication recently of what they mean by national security. It can include, for example, invading the files of a private psychiatrist here in the United States who did not happen to be in favor at the moment with this administration. National security can mean anything they wish it to mean, and they have no parameters or limits whatsoever, and have shown that time and time again.

This amendment guts the effort to make clear to the Turkish Government and to any other government that receives military aid from us that we do not intend to hold our children hostage to the opium and heroin trade.

Now, where is America's real national interest? In 1971, we had 600,000 heroin addicts, and it cost each of them about $18,000 a year, most of it in crime, to support themselves. And once hooked, many of them became pushers in order to sustain their habits. The rate of heroin addiction was soaring geometrically, and we went to our friends in Turkey and our friends in France and said, "Please, you have got to help us; 80 percent of the heroin is being produced in France, and it is killing our kids."

As a matter of fact, it killed about 8,000 of them a year, and they responded. Turkey banned the production of opium; France destroyed their morphine laboratories; and within 3 years heroin addiction in this country dropped by 60 percent.

In this Capital alone there were 16,000 heroin addicts, most of them plying the streets in crime 3 years ago. Now there are only 2,000.

In this country, where there were 600,000 addicts, there are now 250,000. The number is dropping because of the shortage of heroin which has driven the price up, so they cannot sustain the habit even with crime.

Where is this Nation's security to be found? Is it to be found in forbidding that illegal trade to revive again, heroin addiction to grow again, and with all the crime and frustration and despair that we were visited with just a few years ago in terms of heroin addiction?

What does that do to this Nation's national security? I think those who argue that when it comes to defense there are no contrary arguments except what the military command has asked for, that becomes especially ludicrous when the Foreign Minister of Turkey just this morning said that "we will continue the bases even if you cut off the aid."

In light of the fact that last fall in the Middle East war our so-called ally permitted the Russians to fly over Turkey but would not let the United States do so, cannot friends say to each other "There are some things you cannot do to us. We are willing to take our part in this world, we are willing to have military aid, we are willing to have allies, but not at the price of our young."

What this amendment says is we will let the President, with no standards whatsoever, expose our young to a flare-up and an expansion of illegal heroin rackets in order to sustain the interests as they are seen in certain military areas.

Mr. President, I think it would totally undermine and destroy any hopes for negotiations.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, if the amendment of the Senator from Minnesota would indeed prevent the reintroduction of additional quantities of heroin in this country I would support it, but it may have the opposite effect.

I think that narcotics addiction is the worst affliction this country faces. But I suggest the amendment of the Senator from Minnesota could, perhaps, create the kind of climate in which we could not negotiate with the Turks to the extent that the heroin would come right back into this country, and the very thing the Senator seeks to avoid is precisely what would happen.

His amendment will not stop the production of opium poppies. Do not let anybody get the idea that, as a result of this amendment, the heroin will not come flowing into the streets of the cities of the United States. It simply will not happen that way.

If we maintain a climate of restraint in which we do not appear to be dictating internal policies of the Republic of Turkey then, perhaps, we can negotiate with them to make sure that none of this opium grown will go into illicit channels and come back into the United States.

But if we destroy the kind of climate in which we can negotiate, the very thing the Senator from Minnesota fears and the thing that I fear is very likely to happen.

Mr. President, it has been pointed out that the reason the ban was imposed in the first place was because we negotiated it with a friendly Turkish Government. I say we want to maintain that status of friendship so we can negotiate again. The government with which we negotiated before was an authoritarian government that could impose its will on the people. But now the democratic processes are more at work. We are paying the price for seeing domestic democracy in Turkey.

Of course, I know we want to punish the Greeks because they have an authoritarian government. They do not produce any opium or any poppies in Greece so, perhaps, we should revise our opinion in the treatment of the Greeks and be somewhat more consistent around the Senate.

Mr. President, I submit that a friendly climate with Turkey and the external security of the United States are both of vital importance to us. If I thought I was gutting an amendment that would effectively prevent the introduction of illicit opium or heroin into this country, if I thought that it would do that, I would certainly support it.

Let me point out that my amendment requires that the President report to Congress that the national security interests of the United States so require it, and if Congress disagrees that the national security does not require it, Congress has the power to suspend aid. As a matter of fact, Congress has the power by concurrent resolution today to suspend aid to Turkey, in the absence of the amendment of the Senator from Minnesota.

Mr. President, I think we should keep our heads. We get very emotional about this. Dope is a terrible thing, but this amendment will not cure it. I suggest it might create the kind of climate in which we cannot negotiate with the Turks a satisfactory arrangement for preventing opium gum from going into illicit traffic and ending up on our streets as heroin.

Mr. MONDALE. Mr. President, I recall the circumstances surrounding the 1971 agreement with Turkey and with France. That came about, above all, because there was concerted congressional and presidential pressure upon those countries to respond, regrettably pressure that is missing today.

Perhaps the Senator from Texas has different information than I have, but it is my information that the Turks have not responded to any extent whatsover to the current negotiations. They have paid no attention to the efforts by our ambassador there to urge some protection for the American people, and the negotiations are absolutely cold and they are fruitless.

What this amendment seeks to do, and one of the reasons, according to some of

the materials coming out of Turkey, is that they do not believe the American people are as concerned about this matter as they once were—what this amendment is designed to do is to make it clear that we do not intend to tolerate a situation in which thousands of our young people are exposed to the illicit drug traffic and become addicted to heroin, and that we are not going to have a situation where we send millions and millions of dollars—in the case of Turkey $230 million—to a country that is willing to inflict such damage upon our Nation.

We are not trying to disagree with the official position of the Turkish Government. They say all they are interested in is the legal traffic of opium for medicinal purposes. That is all we are asking for in this amendment, together with safeguards to make certain that the drug pushers they have just let out of jail do not get back into the business of peddling those drugs as they were in the pre-1971 era. There is too much evidence—all of it bleak—that that is exactly what is going to happen.

One of the persons released from prison a few weeks ago was caught with 146 kilograms of morphine base. That works out to about 300 pounds of heroin. He had been caught on three previous trips. He is one of the most spectacular drug smugglers in the business. He is back on the streets and ready to get started again. The man who was trying to do a good job in Turkey is now out of business. They are talking about expanding the production to historic levels.

No one that I know who has looked at this matter is at all confident that anything would happen except that most of this would end up in illicit traffic.

This amendment guts our amendment. It takes Congress out of the act; it suspends the operation of the rest of the amendment, solely on the basis of what the President determines to be in this Nation's national security interest. We are on guard now as to how they define national security. It includes just about anything they want: no knowledge, no information, just whatever they want it to mean.

It becomes interesting that we should make that assertion when in this morning's New York Times the Foreign Minister of Turkey said they would not close down our military bases if we cut off military aid or not.

I hope this amendment is defeated, and that we make it clear to Turkey and the other governments that engage in this production that we will not tolerate drug traffic.

Mr. TOWER. Mr. President, I think we all want the same thing. I think that people are going to look at the actions taken here today and be a little confused. Now, I think the high probability is that the amendment of the Senator from Minnesota will be agreed to; and on the very same day we repealed the no-knock provisions that have been such an effective tool in ferreting out drug pushers in this country and confiscating illicit drugs and bringing the pushers to justice.

I wonder how many people are going to laugh at us. In one day we take away one of the most effective tools the law enforcement officer has had to deal with drug abuse and drug pushers. On the one hand, we are crying about the poor drug pusher because somebody kicked his door in, arrested him, and did not advise him first; then we tell the Turks not to raise this stuff, or we are going to pull away all our military assistance if they do, and not defend their flank. It does not make good sense to me.

I hope my amendment is adopted. If it is, I shall support the amendment of the Senator from Minnesota, although I still do not think it will have the desired effect.

Mr. President, I am ready to yield back the remainder of my time if the Senator from Minnesota is ready to yield back his time.

Mr. MONDALE. I shall be ready to yield in a moment. I have one final point.

I do not think there is any question about the fact that we have a mutual support arrangement with the Turkish Government that will continue. That is what is being discussed here in terms of national security. But the proposal here is so broad it guts out my amendment. I hope the Senator's amendment is rejected.

Mr. President, I ask unanimous consent that Senators JAVITS, NELSON, MCGOVERN, BURDICK, MUSKIE, BIDEN, HUGHES, and DOLE be added as cosponsors of my amendment.

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

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

The PRESIDING OFFICER. On whose time?

Mr. TOWER. To be equally divided.

Mr. MONDALE. Mr. President, will the Senator withhold for just a moment?

Mr. TOWER. I withdraw my request.

Mr. MONDALE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 2 minutes.

Mr. MONDALE. Mr. President, I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I must confess I have a deep concern for keeping together the NATO alliance. I sympathize with the objectives that the Senator from Texas has in mind, but nevertheless we have to face the hard realities and the hard realities are such that the resumption of growing poppies, without the safeguards that would be provided for reasonable assurance that none of that opium will find its way into illicit channels, will have a tremendous impact on the lives of our citizens.

I am afraid the amendment of the Senator from Texas is so sweeping in effect that it would totally vitiate the amendment offered by the Senator from Minnesota.

I therefore urge that it be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. McGOVERN. Mr. President, this amendment to the Drug Abuse Prevention Act would suspend all American aid to Turkey until that country reimposes its ban on the production of opium.

The Turkish Government announced June 28 it would once again permit opium production, removing a prohibition imposed 3 years ago at the urging of the United States.

This outrageous decision could mean a complete reversal of all the gains we have made in the war against heroin in this country. We cannot permit this to happen.

Before the ban, Turkey supplied more than 80 percent of all the illegal heroin coming into the United States. The elimination of that source of supply went a long way toward drying up the market.

Unless it is stopped, the Turkish decision will translate directly into more addicts, more crime, more millions of dollars of profits for underworld traffickers in hard drugs. It would be sheer stupidity for us to continue supplying aid of any kind to a country that would inflict such an attack on the American people.

Mr. PACKWOOD. Mr. President, there is no pestilence as cruel as one that saps the lifeblood of a nation's younger generation. When such a plague is encouraged by lawless and heartless segments of the population, then this blight becomes a monstrosity consuming the well-being of a country and in turn spewing forth filth and degradation.

Heroin addiction is the epitome of this pestilence—a disease that up until 3 years ago was on a rampage, cutting through the urban core of our large cities, and spreading through to "comfortable" suburbs. No class, no income level, no neighborhood was immune to the spread of addiction. No distance was too great. And so, because of the increased availability of the drug in the 1960's, thousands of young people succumbed to the horrors of heroin. It was a tragic treadmill, moving faster with greater destruction each year.

Thus with only escalation of this grave problem in sight, 3 years ago this country moved to halt in the most effective manner the heroin traffic. With the double blow of drastically reducing the heroin source—Turkish opium poppy fields—and by mounting an effective drug rehabilitation program here in the States we hoped to knock out the heroin blight before it literally killed thousands of Americans.

Mr. President, since 1971 that very promise was beginning to be fulfilled. As the senior Senator from Minnesota (Mr. MONDALE) has reported to this body, the Turkish ban of 3 years ago effected a drop of 60 percent in the number of heroin addicts. With this encouraging progress, how are we then to greet the Turkish Government's decision of last week to drop the ban on opium produc-

tion? In dropping the ban they might as well be dropping a bomb on all the grinding progress we have managed to make in recent years. Lifting the ban will again restore the heroin flood in the United States, access will be free and easy but the costs to society will again be astronomical.

I cannot stand for a resumption of this despicable trade. We must not allow these merchants of death-dealing drugs to again ply their poison. Because the renewed bloom of opium in Turkey will translate into a new spread of addiction in America, we must use the most effective means at our disposal to convince Turkey that we value the health of our people more than the meager moneys Turkish farmers might obtain through illegal poppy production. This is why I strongly support Senator MONDALE's amendment to terminate economic and military aid to Turkey until their ban on the growing of opium is reapplied.

If money was the motivating factor for Turkey to resume production, let us speak their language. Our aid—$232 million proposed for the next fiscal year—is substantial when compared to Turkish opium profits. Likewise, our concern for the probable escalation in addiction is heavy, and heavily we must bring pressure to bear on the Turkish Government to, therefore, reverse their decision.

I hope, then, that passage of this amendment will persuade the Turks of the seriousness with which we regard this situation, that this grave error is rectified, and that the ban will again be put into force, so that progress in drug rehabilitation can continue rather than be tragically reversed.

RECESS FOR 3 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for a period of 3 minutes.

There being no objection, at 4:54 p.m., the Senate took a recess for 3 minutes; whereupon, at 4:57 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

UNANIMOUS-CONSENT AGREEMENT ON S. 1566

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared on both sides of the aisle. I ask that at such time as S. 1566, Calendar Order No. 910, is called up and made the pending business before the Senate—and this will not be until next Wednesday—that there be a time limitation on the bill of 1 hour, to be equally divided between Mr. INOUYE and Mr. JAVITS; that time on any amendment thereto be limited to 30 minutes; the time on any amendment to an amendment, debatable motion, or appeal be limited to 20 minutes, and that the agreement be in the usual form.

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

MESSAGE FROM THE PRESIDENT

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

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that on July 10, 1974, he had approved and signed the following acts:

S. 3490. An act providing that funds apportioned for forest highways under section 202(a), title 23, United States Code, remain available until expended; and

S. 3705. An act to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows.

MESSAGE FROM THE PRESIDENT— REPORT OF THE SECRETARY OF TRANSPORTATION ON HAZARDOUS MATERIALS CONTROL

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the Fourth Annual Report of the Secretary of Transportation on Hazardous Materials Control, which, with the accompanying report, was referred to the Committee on Commerce and ordered to be printed. The message is as follows:

To the Congress of the United States:

I transmit herewith the Fourth Annual Report of the Secretary of Transportation on Hazardous Materials Control, as required by the Hazardous Materials Transportation Control Act of 1970, Public Law 91-458. This report has been prepared in accordance with Section 302 of the Act and covers calendar year 1973.

RICHARD NIXON.

THE WHITE HOUSE, *July 11, 1974.*

EXECUTIVE MESSAGES REFERRED

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

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, July 11, 1974, he presented to the President of the United States the following enrolled bills:

S. 2830. An act to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus; and

S. 2893. An act to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next three fiscal years.

AMENDMENT OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT

The Senate continued with the consideration of the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Texas to the amendment offered by the Senator from Minnesota.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 29, nays 60, as follows:

[No. 299 Leg.]

YEAS—29

Aiken	Griffin	Pearson
Beall	Gurney	Percy
Bennett	Hart	Randolph
Brock	Haskell	Scott, Hugh
Byrd, Robert C.	Hruska	Stafford
Chiles	Kennedy	Stennis
Cotton	Mathias	Stevens
Eastland	McGee	Thurmond
Fannin	McIntyre	Tower
Goldwater	Nunn	

NAYS—60

Abourezk	Fulbright	Montoya
Allen	Hansen	Moss
Baker	Hartke	Muskie
Bartlett	Hatfield	Nelson
Bentsen	Hathaway	Packwood
Bible	Helms	Pastore
Biden	Hollings	Pell
Buckley	Huddleston	Proxmire
Burdick	Hughes	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Roth
	Inouye	Schweiker
Cannon	Jackson	Scott, William L.
Case	Javits	
Church	Magnuson	Sparkman
Clark	Mansfield	Stevenson
Cook	McClellan	Symington
Dole	McClure	Taft
Domenici	McGovern	Tunney
Dominick	Metcalf	Weicker
Ervin	Metzenbaum	Williams
Fong	Mondale	

NOT VOTING—11

Bayh	Curtis	Long
Bellmon	Eagleton	Talmadge
Brooke	Gravel	Young
Cranston	Johnston	

So Mr. TOWER's amendment to Mr. MONDALE's amendment was rejected.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COOK. Mr. President, I ask unanimous consent that the rollcall vote on the Mondale amendment be limited to 10 minutes, with the bell to ring after 2½ minutes.

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

The question now recurs on agreeing to the amendment of the Senator from Minnesota (Mr. MONDALE). On this ques-

tion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 81, nays 8, as follows:

[No. 300 Leg.]

YEAS—81

Abourezk	Fulbright	Montoya
Allen	Gurney	Moss
Baker	Hansen	Muskie
Bartlett	Hart	Nelson
Beall	Hartke	Nunn
Bentsen	Haskell	Packwood
Bible	Hatfield	Pastore
Biden	Hathaway	Pearson
Brock	Helms	Pell
Buckley	Hollings	Proxmire
Burdick	Huddleston	Randolph
Byrd, Harry F., Jr.	Hughes	Ribicoff
	Humphrey	Roth
Byrd, Robert C.	Inouye	Schweiker
Cannon	Jackson	Scott, Hugh
Case	Javits	Scott, William L.
Chiles	Kennedy	
Church	Magnuson	Sparkman
Clark	Mansfield	Stennis
Cook	Mathias	Stevens
Cotton	McClellan	Stevenson
Dole	McClure	Symington
Domenici	McGee	Taft
Dominick	McGovern	Thurmond
Eastland	McIntyre	Tunney
Ervin	Metcalf	Weicker
Fannin	Metzenbaum	Williams
Fong	Mondale	

NAYS—8

Aiken	Griffin	Stafford
Bennett	Hruska	Tower
Goldwater	Percy	

NOT VOTING—11

Bayh	Curtis	Long
Bellmon	Eagleton	Talmadge
Brooke	Gravel	Young
Cranston	Johnston	

So Mr. MONDALE's amendment was agreed to.

Mr. COOK. Mr. President, I send an amendment to the desk, and I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

SEC. 2. Section 1114, Title 18, United States Code, is amended by deleting "Bureau of Narcotics and Dangerous Drugs" and inserting "Drug Enforcement Administration" in lieu thereof.

Mr. COOK. Mr. President, at the present time section 1114 of title 18 of the United States Code makes it a Federal offense for anyone to assault a Federal law enforcement officer. The statute lists the various agencies to which it applies, including the officers of the former Bureau of Narcotics and Dangerous Drugs. It is now the Drug Enforcement Administration, and it was inadvertently left out.

This is a correction so that they can all come under the full force and effect of section 1114 of title 18, and I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. 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 Senate will be in order.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT ON H.R. 11537

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 11537, Calendar No. 904, is called up and made the pending business before the Senate, there will be a time limitation thereon of 1 hour, to be equally divided between the majority leader and the minority leader, or their designees; and that there be a time limitation on any amendment, debatable motion or appeal of 30 minutes; and the agreement be in the usual form, with the understanding that this bill will be called up on Monday.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, after this vote there will be no further votes today and we will go over until Monday.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes on Monday prior to the hour of 3:30 p.m.

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

AMENDMENT OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT

The Senate continued with the consideration of the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis.

The PRESIDING OFFICER. The question is on final passage of the bill S. 3353.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The result was announced—yeas 89, nays 0, as follows:

[No. 301 Leg.]

YEAS—89

Abourezk	Goldwater	Moss
Aiken	Griffin	Muskie
Allen	Gurney	Nelson
Baker	Hansen	Nunn
Bartlett	Hart	Packwood
Beall	Hartke	Pastore
Bennett	Haskell	Pearson
Bentsen	Hatfield	Pell
Bible	Hathaway	Percy
Biden	Helms	Proxmire
Brock	Hollings	Randolph
Buckley	Hruska	Ribicoff
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Hughes	Schweiker
	Humphrey	Scott, Hugh
Byrd, Robert C.	Inouye	Scott, William L.
Cannon	Jackson	
Case	Javits	Sparkman
Chiles	Kennedy	Stafford
Church	Magnuson	Stennis
Clark	Mansfield	Stevens
Cook	Mathias	Stevenson
Cotton	McClellan	Symington
Dole	McClure	Taft
Domenici	McGee	Thurmond
Dominick	McGovern	Tower
Eastland	McIntyre	Tunney
Ervin	Metcalf	Weicker
Fannin	Metzenbaum	Williams
Fong	Mondale	
Fulbright	Montoya	

NAYS—0

NOT VOTING—11

Bayh	Curtis	Long
Bellmon	Eagleton	Talmadge
Brooke	Gravel	Young
Cranston	Johnston	

So the bill (S. 3355) was passed, as follows:

S. 3355

An Act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 709 of the Controlled Substances Act of 1970 (Public Law 91-913; 84 Stat. 1284; 21 U.S.C. 904) is amended by inserting immediately before the period at the end thereof the following: ", $125,000,000 for the fiscal year ending June 30, 1975, $150,000,000 for the fiscal year ending June 30, 1976, $175,000,000 for the fiscal year ending June 30, 1977, $200,000,000 for the fiscal year ending June 30, 1978, and $225,000,000 for the fiscal year ending June 30, 1979".

INTERNATIONAL NARCOTICS CONTROL

SEC. 2. Section 481 of the Foreign Assistance Act of 1961, as amended, is amended by adding at the end thereof the following new subsections:

"(c)(1) Any Government, which permits the production of opium poppies, shall not be the recipient of economic and military assistance furnished under this or any other Act, and all sales, credit sales and guarantees made with respect to such country under the Foreign Military Sales Act and under title I of the Agricultural Trade Development and Assistance Act of 1954 shall be suspended, beginning January 1, 1975, unless the President determines that a ban on the growing of opium poppies is in effect or certifies to the Congress that safeguards adopted by the Government concerned effectively prevents the diversion of opium and its derivatives into illicit markets. Such certification shall be accompanied by a detailed description of such safeguards. In the latter event, economic and military assistance and event, credit sales and guarantees shall continue only so long as the President continues to be satisfied as to the effectiveness of such safeguards.

"(2) The Director of the Drug Enforcement Administration shall report immediately to the President and the Congress any evidence that opium and its derivatives are being diverted from permitted production into illicit markets and shall also make a detailed report on or before June 30 of each year to the President and the Congress, reporting on the worldwide production of opium and its derivatives, the effectiveness of controls in each producing country, and the extent to which opium and its derivatives are being diverted into illicit markets.

"(3) If, within 60 days of continuous session of the Congress after a report is submitted under paragraph (2), the Congress adopts a concurrent resolution finding that any country has not effectively banned the growing of opium poppies or that such country is not effectively preventing opium, or its derivatives, produced in such country from being diverted into illicit markets, then the President shall immediately suspend economic and military assistance to such country under this or any other Act and shall suspend all sales, credit sales and guarantees to such country under the Foreign Military Sales Act and title I of the Agricultural Trade Development and Assistance Act of 1954."

"(d) Subsections (e)–(g) of this section are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(e) For purposes of the section, the term 'concurrent resolution' means only a concurrent resolution of the Senate or the House of Representatives the matter after the resolving clause of which is substantially as follows: 'The Congress finds that ——— has not effectively banned the production of opium and has not effectively prevented the diversion of opium, or its derivatives, produced therein from being diverted into illicit markets.' (The blank space being filled with the name of the country involved.)

"(f)(1) A concurrent resolution shall be referred to the appropriate committee of the Senate or the House as the case may be. When the committee of the House has reported a concurrent resolution, it is in order at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report upon such resolution has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(2) General debate on any concurrent resolution in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to. No amendment to the concurrent resolution is in order.

"(3) Motions to postpone, made with respect to the consideration of any concurrent resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(4) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution shall be decided without debate.

"(g)(1) Debate in the Senate on any concurrent resolution and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between and controlled by the majority leader and the minority leader or their designees.

"(2) No amendment to the concurrent resolution is in order. A motion to further limit debate is not debatable. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution."

SEC. 3. Subsection (b) of section 509 of the Controlled Substances Act (21 U.S.C. 879) is hereby repealed.

SEC. 4. (a) Section 23–522(c)(2) of the District of Columbia Code is hereby repealed.

(b) Section 23–521(f)(6) of the District of Columbia Code is hereby repealed.

(c) Section 23–524(a) is amended to read as follows:

"(a) An officer executing a warrant directing a search of a dwelling house or other building or a vehicle shall execute such warrant in accordance with section 3109, title 18, United States Code.".

(d) The last sentence of section 23–561(b)(1) of the District of Columbia Code is hereby repealed.

(e) Section 23–591 of the District of Columbia Code is hereby repealed.

SEC. 5. Section 1114, title 18, United States Code, is amended by deleting "Bureau of Narcotics and Dangerous Drugs" and inserting "Drug Enforcement Administration" in lieu thereof.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed

Mr. MUSKIE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT UNTIL MONDAY, JULY 15, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon, on Monday next.

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

ORDER FOR RECOGNITION OF SENATOR METZENBAUM ON MONDAY, PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR THE CONSIDERATION OF H.R. 11537

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on Monday, that the Senator from Ohio (Mr. METZENBAUM) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each, after which the Senate return to the consideration of Calendar No. 904, H.R. 11537.

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

VIORICA ANNA GHITESCU, ALEXANDER GHITESCU, AND SERBAN GEORGE GHITESCU

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 955.

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

The legislative clerk read as follows:

A bill (H.R. 8543) for the relief of Viorica Anna Ghitescu, Alexander Ghitescu, and Serban George Ghitescu.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which was ordered to a third reading, read the third time and passed.

CONSUMER FOOD ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Senate Calendar 948.

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

The legislative clerk read as follows:

A bill (S. 2373) to regulate commerce and protect consumers from adulterated food by requiring the establishment of surveillance regulations for the detection and prevention of adulterated food, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment in the nature of a substitute; and from the Committee on Labor and Public Welfare with an amendment in the nature of a substitute.

Mr. MAGNUSON. Mr. President, I send to the desk four technical amendments, and I ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

The amendments are as follows:

On page 23, line 24, delete the period and insert the following: "except with respect to the application of sections 410(a) and 410(c) of this Act to fresh fruits and vegetables in their raw, unpeeled form with respect to which 'safety assurance' includes and is to be limited to those processing factors which bear upon whether a food may be adulterated, within the meaning of sections 402(a) (3) and (4) of this Act."

On page 52, delete lines 12 through 21 and insert in lieu thereof: "(e) This section shall not apply to—

"(1) any class of food processors whom the Secretary may by regulation exempt from the application of this section upon a finding in writing that registration in accordance with this section is not necessary for the protection of the public health;

"(2) any processing subject to the exclusive jurisdiction of the Secretary of Agriculture;

"(3) any processing consisting solely of the sale of food in a retail establishment for consumption on or off the premises; or

"(4) the processing of distilled spirits, wine, or malt beverages as defined in the Federal Alcohol Administration Act (27 USC 201–211).

On page 55, line 10, after the words "the dating of", delete the words "the food" and insert in lieu thereof "a food for human consumption".

On page 57, line 5, after the words "a food", insert "for human consumption".

On page 60, line 7, after the word "of", insert the word "any", and after the word "food", insert the words "for human consumption".

On page 60, line 23, after the words "of a food", insert the words "for human consumption".

On page 64, following line 9, insert a new section 309 as follows:

"SEC. 309. This title shall not apply to the labeling of distilled spirits, wine or malt beverages to the extent of the application or the extension thereof of the Federal Alcohol Administration Act (27 USC 201–211)."

On page 64, line 11 renumber "SEC. 309" as "SEC. 310.".

The PRESIDING OFFICER. Without objection, the technical amendments are agreed to en bloc.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the enrollment of S. 2373.

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

The bill is open to further amendment.

Mr. MAGNUSON. Mr. President, I will take just about a minute on the bill.

Mr. President, this is a very, very important bill. I think it is one of the most significant and farsighted new laws to protect the consumer from unsafe food since revision of the Federal Food, Drug, and Cosmetic Act in 1938.

This did not happen by accident. The committee and its staff worked long and hard with consumer representatives, the Food and Drug Administration and representatives of the food industry in order to achieve an unusual degree of unanimity and singleness of purpose. We all recognize the need for an expedient up-to-date regulatory process to achieve a greater degree of food safety while minimizing the additional cost of such a program that might further increase the food price spiral.

After considerable personal involvement in this legislation, I feel that I can say that the food safety provisions of this bill achieve our goals in giving American consumers—who already have the best selection of quality foods available—the best food safety law available anywhere.

I want to compliment all the members of the committee, both the Republicans and the Democrats. At long last, after a lot of work and a lot of give and take not only with the industry, and the Federal agencies but also within our own committee, this bill has finally received the well-deserved unanimous approval of the Senate. I want to give special thanks to the staff of the Commerce Committee including Leonard Bickwit, Edward Merlis, Michael Brownlee, Shari Leber. Arthur Pankopf, and Tom Adams without whose diligent efforts such unanimity could not have been achieved. It is my understanding that the contributions of the Committee on Labor and Public Welfare were invaluable to the Commerce staff, and I'd like to compliment that committee too.

It is going to work well. It is probably one of the best consumer bills we have passed in a long, long time.

Mr. GRIFFIN. Mr. President, I wish to ask the distinguished chairman of the committee about the amendments which have already been adopted. I did not oppose them, but did they not add some exemptions so far as the coverage of the bill is concerned?

Mr. MAGNUSON. Yes; the committee considered those, and they were unanimous.

Mr. GRIFFIN. I do not take exception to the merits of the particular amendments. But I would not regard them as technical amendments. I would have to regard them as amendments of substance.

Mr. MAGNUSON. The Senator can call them what he wishes. They are amendments to the bill.

Mr. GRIFFIN. I shall allow the matter to rest there except to observe that when a Senator asks unanimous consent for some technical amendments to be incorporated in a bill, I think in terms of grammatical or typographical changes, rather than exempting certain industries from coverage.

Mr. MAGNUSON. They have been cleared.

Mr. GRIFFIN. I understand that.

Mr. MANSFIELD. If the Senator will yield, it is my understanding that they were noncontroversial amendments, rather than technical.

Mr. GRIFFIN. I will accept that.

Mr. MAGNUSON. I will accept that.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute, reported by the Committee on Commerce, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Committee on Labor and Public Welfare, in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mr. KENNEDY. Mr. President, the safety of the American food supply must be given high priority. Hazards of botuism and other food poisoning and exposure to chemicals, are just some of the problems surrounding food processing. The problem of adulterated food in this country is not insignificant. In fiscal year 1973, the Food and Drug Administration instituted 3,020 regulatory actions—including recalls, seizures, and import detentions—against adulterated food. It is recognized that these figures represent only the surface of the problem. There are approximately 60,000 companies in the food industry, 32,000 are manufacturers and processors. Through inspections, samplings, and retail surveys, FDA can hope to discover only a fraction of the adulterated food which is sold to consumers. More importantly, action is usually taken after the food is sold and often after someone has been injured. Presently, since FDA must itself perform all of surveillance for adulterated food, little can be done to prevent adulteration or detect it prior to sale.

In December of last year, the Health Subcommittee of the Committee on Labor and Public Welfare which I chair reported S. 2373. The bill was designed to better insure that action is taken to reduce and eleminate risks and potential risks to health from food.

As reported from the Health Subcommittees, S. 2373 required the Secretary of Health, Education, and Welfare—through the Food and Drug Administration—to conduct a surveillance program for adulterated food. It required food manufacturers to institute procedures to assure food safety. And it gave FDA additional authority to determine problems associated with food processing and alleviate those problems, and it required manufacturers to register with FDA. It also provided for ingredient labeling of all foods.

I am pleased that in considering S. 2373 the Commerce Committee retained each of these vital provisions. I commend the members of that committee and especially my esteemed colleagues WARREN MAGNUSON, the chairman of that committee and PHILIP HART, who chaired the hearings on S. 2373 in the Consumer Subcommittee. Both of these men are responsible for so much of the legislation which has been enacted for the protection of the consumer.

In addition to what I have described as the vital principles of S. 2373, the Commerce Committee has provided for important provisions regarding food labeling—another important protection for consumers.

This legislation is needed to deal with the serious problems of food adulteration. It is hard to believe that food manufacturers can market their products without conducting any procedures to assure the safety of that food. It is too late to act after people have suffered the

ill effects of adulterated food. I urge the House to hold hearings on this vital piece of legislation so that it can be enacted this year.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

S. 2373

An act to regulate commerce and protect consumers from adulterated food by requiring the establishment of surveillance regulations for the detection and prevention of adulterated food, 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 "Consumer Food Act of 1974".

TITLE I—FOOD SURVEILLANCE

SEC. 101. Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341–8) is amended by adding at the end thereof the following new section:

"FOOD SURVEILLANCE

"Safety Assurance Procedures

"SEC. 410. (a)(1) Any person who owns or operates any establishment in which food is processed (hereinafter referred to as a 'food processor') shall, unless he is exempted by the Secretary, pursuant to paragraph (4) of this subsection, develop, implement, and maintain safety assurance procedures for such establishment. Such procedures shall be set forth in writing and accessible to the Secretary within 6 months of the date of enactment of this section in such manner and form as the Secretary shall prescribe. In developing such procedures a food processor shall—

"(A) identify those control points in the food processing operation carried out by any establishment owned or operated by him which are important in the prevention of adulteration, within the meaning of section 402(a) of this chapter;

"(B) identify the hazards associated with each such point;

"(C) establish adequate controls at each such point; and

"(D) establish adequate monitoring of the controls at each such point.

"(2) The safety assurance procedures developed under paragraph (1) of this subsection shall be reviewed, and appropriate revisions made, at least annually, by the food processor involved.

"(3) Written documents required under this section shall be retained for 5 years and shall be subject to inspection, pursuant to section 704 of this Act.

"(4) A food processor shall be exempted from the requirements of this subsection if the Secretary finds by regulation that the establishment or type of establishment owned or operated by such processor is unlikely, because of the nature or volume of its food processing, to create or contribute to a significant risk of adulteration, within the meaning of section 402(a) of this chapter.

"(5) As used in this section 'safety assurance' includes and is limited to those processing factors which bear upon whether a food may be adulterated, within the meaning of section 402(a) of this chapter except with respect to the application of sections 410(a) and 410(c) of this Act to fresh fruits and vegetables in their raw, unpeeled form with respect to which 'safety assurance' includes and is to be limited to those processing factors which bear upon whether a food may be adulterated, within the meaning of sections 402(a) (3) and (4) of this Act.

"Safety Assurance Plan

"(b)(1) On or before December 31 of each year, the Secretary shall prepare a safety assurance assessment report concerning existing and potential risks of adulteration, within the meaning of section 402(a) of this chapter, which are known to him and for which safety assurance procedures, safety assurance standards, or inspection and monitoring by the Secretary appear necessary or appropriate to protect the public. Such report shall—

"(A) specify all risks identified;

"(B) rank such risks in the order of their public importance; and

"(C) state, in general terms, the means by which such risks are to be controlled (that is, by safety assurance procedures, safety assurance standards, or identified methods or procedures of inspection and monitoring).

"(2) The first safety assurance assessment report shall include a proposed safety assurance plan, in the form of a proposed regulation, which shall be designed to control the risks required to be specified in such report. Such plan shall include a specific schedule for implementation (that is, the date by which (A) appropriate provisions shall be included in safety assurance procedures; (B) an appropriate safety assurance standard shall be developed and adopted or (C) a particular method or procedure of inspection and monitoring—including, where appropriate, the frequency of its application—shall be implemented), in such detail as to permit reasonable evaluation by interested persons of the adequacy of the Secretary's total safety assurance effort. Subsequent safety assurance assessment reports shall include any proposed changes in the safety assurance plan, in the form of proposed amendments to such regulation. Such plan may be further amended at any time at the discretion of the Secretary. No such plan or amendment thereto shall contain provisions regarding safety assurance procedures or safety assurance standards applicable to processing which consists solely of the sale of food in a retail establishment for consumption on or off the premises.

"(3) The safety assurance assessment report and the proposed safety assurance plan or amendments thereto shall be published in the Federal Register and interested persons shall be afforded an opportunity for comment pursuant to section 553 of title 5, United States Code. Any final plan or amendment shall constitute final agency action subject to judicial review, in accordance with section 701(f) of this Act.

"(4) The safety assurance plan shall provide for inspection at least once each year, by authorized representatives of the Secretary, of each establishment engaged in the processing of food, other than an establishment (A) which is engaged in processing which consists solely of the sale of food in a retail establishment for consumption on or off the premises; or (B) which is of a type which the Secretary by regulation finds is unlikely, because of the nature or volume of its food processing, to create or contribute to a significant risk of adulteration, within the meaning of section 402(a) of this chapter: *Provided,* That such plan may provide for a transfer by the Secretary of resources committed to such annual inspections to other food safety assurance activities subject to his jurisdiction upon a finding that such transfer is necessary to protect health and safety.

"(5) The safety assurance plan shall, at a minimum, be formulated so as to (A) reduce or eliminate all risks required to be specified in prior safety assurance assessment reports to the maximum extent feasible; and (B) provide reasonable assurance that within 4 years of the date of enactment of this section no such risk shall constitute an unreasonable risk of adulteration, within the meaning of section 402(a) of this chapter, unless and to the extent that the Secretary for good cause finds (and incorporates such finding and a statement of the reasons therefor in the plan) that the realization of this objective is infeasible, impractical, or contrary to the public interest.

"Safety Assurance Standards

"(c)(1) If the Secretary finds that any food or class of food is being processed in such a manner as to present an unreasonable risk of adulteration, within the meaning of section 402(a) of this chapter, and that existing safety assurance procedures and inspection and monitoring activities are not adequate to protect against such risk to the extent required by paragraph (8) of this subsection, he shall promulgate regulations or amendments to existing regulations in order to establish a safety assurance standard to reduce or eliminate such risk.

"(2) Regulations under this subsection shall be promulgated in accordance with section 553 of title 5, United States Code, after notice and an opportunity for a hearing: *Provided,* That (A) the Secretary shall publish in the Federal Register his findings and an adequate statement of reasons underlying the provisions adopted, including responses to objections and comments of interested persons; and (B) an order promulgating regulations or amendments to regulations under this subsection shall be subject to judicial review, in accordance with section 701(f) of this Act.

"(3) Regulations under this subsection may be proposed by the Secretary upon his own initiative or upon the petition of any interested person. In promulgating or modifying such regulations the Secretary shall consider the reports and recommendations of appropriate advisory committees established by the Secretary.

"(4) Regulations under this subsection shall designate—

"(A) the food or class of foods which is subject to the safety assurance standards being established;

"(B) the persons required to conduct surveillance in accordance with such standards;

"(C) the contaminants, properties, unsanitary practices, or other factors (including but not limited to micro-organisms, heavy metals, toxins, drug residues, pesticide residues, filth, and other potentially harmful constituents and practices) for which surveillance is required;

"(D) the sampling methods and methods of inspection and examination by which such surveillance shall be accomplished;

"(E) the methods of analysis by which such examinations shall be accomplished;

"(F) the circumstances under which reports of such surveillance and test results shall be submitted to the Secretary; and

"(G) the activities (including sampling, analysis, and inspections) which the Secretary shall undertake to assure compliance with the safety assurance standards being established.

"(5) No safety assurance standard established under this subsection shall be applicable to any person who has developed, implemented, and maintained safety assurance procedures under subsection (a) of this section which the Secretary finds are adequate to protect against risks of adulteration to the extent required by paragraph (8) of this subsection.

"(6) The Secretary shall periodically evaluate the adequacy of any safety assurance standard established under this subsection and propose amendments in order to reflect new information or changes in methods of food processing.

"(7) Any person or group of persons may petition the Secretary, for an amendment

of, or an exception to, regulations promulgated under this subsection to permit the use of methods other than those specified in the regulations. Upon a showing that any alternative method is equally or more effective than the method specified in the regulations, the Secretary shall (A) approve the requested amendment or exception; or (B) refer the petition for an amendment or exception to an advisory committee established pursuant to subsection (d) of this section for its consideration and recommendation.

"(8) The safety assurance standards established pursuant to paragraphs (1) and (2) of this subsection shall be formulated and implemented so as to provide reasonable assurance that food does not present an unreasonable risk of adulteration, within the meaning of section 402(a) of this chapter. Such standards may vary, as appropriate, among different foods or classes of foods. If there is insufficient knowledge to establish such a standard for any food or class of foods, the Secretary shall immediately initiate a program to acquire sufficient knowledge and to develop such a standard.

"(9) If the Secretary finds a threat or potential threat to the public health, which requires that there be an immediate increase in the level of surveillance pursuant to safety assurance standards, with respect to any foods or classes of foods, he may direct an increase in such level (or otherwise modify the applicable safety assurance standards) to the extent that he determines necessary. Such an order may be entered without regard to any procedural prerequisites otherwise applicable, except that the Secretary shall provide an opportunity or a hearing thereon and comply with other applicable procedures as soon as practicable after the increase in the level of surveillance has been directed.

"(10) Chemical and other analyses performed under this section to determine the presence and amount of contamination in food shall be performed through the use of the best instruments, technology, and trained personnel which are reasonably available.

"Advisory Committees

"(d)(1) The Secretary is authorized to appoint and organize such standing or ad hoc advisory committees as he deems necessary or appropriate to study and report to him with respect to existing and potential hazards to health and safety related to food, risks of adulteration, and recommended action to reduce such hazards or risks. Each committee so established shall provide, to the maximum extent practical, an opportunity for any interested person to submit data and views on all matters considered by such committee. The meetings of such committees shall be governed by the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I). The Secretary shall cause any report submitted to him by any such committee to be published as soon as practicable in the Federal Register and shall provide interested persons an opportunity to comment thereon.

"(2) Where advisory committees are established, the members shall be individuals who are qualified, by training and experience, in food safety or in the use of statistical sampling techniques, analytical methodology, or other technical disciplines relevant to food surveillance. The provisions of chapter 11 of title 18, United States Code, shall apply with respect to voting members of any such committee. In addition to such technical experts, any such committee shall include, as nonvoting members, a representative of consumer interests and a representative of industry interests. Committee members may be nominated by appropriate scientific, trade, and consumer organizations. The Secretary shall designate one of the members of any such committee to serve as chairman. Committee members shall, while attending meetings or conferences of the committee or otherwise engaged in its business, be compensated at per diem rates fixed by the Secretary, but not at rates in excess of the rate for grade GS–18 of the General Schedule at the time of such service, including traveltime. While serving away from their homes or regular places of business, members of such committees may be paid 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. The Secretary shall furnish any such committee with adequate clerical and other necessary assistance, and he shall prescribe by regulation the procedures to be followed by it.

"Records and Examination

"(e)(1) Any person required to comply with the requirements of subsection (a) or (c) of this section shall establish and maintain such records as the Secretary may by regulation require pertaining to safety assurance procedures and safety assurance standards and make such records available to the Secretary upon request.

"(2) The Secretary may require, by general or specific orders, the submission of special reports or answers in writing to specific questions containing such data and information relating to any safety assurance procedures and safety assurance standards, or the implementation thereof, or any matter relating to detection of adulterated or misbranded food, which may assist him in carrying out the purposes of this Act. The district courts of the United States shall have jurisdiction to enforce such general or specific orders and to require access to such information, upon application of the Attorney General or of the Secretary pursuant to section 309 of this Act. An action for enforcement of such orders may be brought in the district court of the United States for any judicial district in which the person or establishment involved is found or transacts business.

"Notification

"(f)(1) A food processor, upon learning, or acquiring information which supports the conclusion, that there is, with respect to food processed by him, an unreasonable risk of adulteration, within the meaning of section 402(a) of this chapter, shall immediately notify the Secretary of such risk, if such food has left his control. Such food processor shall also notify the Secretary of any recall of any food which is adulterated, within the meaning of section 402(a) of this chapter, if such food has left an establishment subject to his control. No information or statements derived exclusively from any notification required under this section (except for information contained in records required to be maintained under any provision of this Act) shall be used as evidence in any proceeding brought against an individual pursuant to section 303 of this Act with respect to any alleged violation of law occurring prior to or concurrently with such notification.

"(2) The notifications required by paragraph (1) of this subsection shall contain a clear description and evaluation of the risk of such adulteration, including, but not limited to, the nature of the food affected and the quantity involved, and a statement of the measures to be taken to protect the public from such risk.

"Citizens Civil Action

"(g)(1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case of controversy—

"(A) against any person (including the Secretary) who is alleged to be in violation of any regulation promulgated under subsection (c)(1) of this section; or

"(B) against the Secretary where there is alleged a failure of the Seecretary to comply with the safety assurance plan established under subsection (b) of this section or to perform any act or duty under this section which is not discretionary with the Secretary.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(2) No civil action may be commenced—

"(A) under paragraph (1)(A) of this subsection—

"(i) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or

"(ii) if the Attorney General or the Secretary has commenced and is diligently prosecuting proceedings with respect to such alleged violation.

"(B) under paragraph (1)(B) of this subsection, prior to 60 days after the plaintiff has given notice to the Secretary of such alleged failure to comply with the plan or to perform an act or duty.

"(3) In any action under this subsection the Attorney General or the Secretary may intervene as a matter of right.

"(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any regulation or order or to seek any other relief.

"(6) For purposes of this subsection, the term 'person' means an individual, corporation, partnership, association, State, municipality, or political subdivision of a State.

"Other Authority

"(h) This section shall not be construed to exempt the Secretary or any other person from any obligation imposed by any other provision of this Act or by the provisions of any other Act, nor shall this section be construed to permit the use of any substance, practice, or conduct resulting in the presence of adulterated food if such use, practice, or conduct would not have been permitted in the absence of this section.

"Exemption

"(i) This section shall not apply to—

"(1) any processing subject to the exclusive jurisdiction of the Secretary of Agriculture;

"(2) processing which consists solely of the sale of food in a retail establishment for consumption on or off the premises, except with respect to safety assurance assessment reports and safety assurance plans prepared or established pursuant to subsection (b) of this section; or

"(3) processing of food which is not or has not been introduced into, delivered or held for introduction into, or shipped in or received or held for sale after shipment in, interstate commerce.

"Small Business Assistance

"(j) The Secretary shall cooperate with the Small Business Administration with respect to applications (under section 7(b)(5) of the Small Business Act, as amended (15 U.S.C. 631 et seq.)) for loans to assist affected small business concerns to comply with requirements under this section. The Small Business Administration shall direct that applications from such concerns, re-

garding proposed additions to or alterations in plant, facilities, or methods of operation which are designed to enable such concerns to comply with requirements under this section, shall be reviewed by the Secretary. The Secretary shall evaluate each such application and shall report to the Administrator (or to the bank or lending institution) within 60 days as to whether such additions or alterations are appropriate to assist the applicant to comply with such requirements and whether he recommends that the loan be granted.".

SEC. 102. Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by adding at the end thereof the following two new subsections:

"(g) If any food is found by an authorized representative of the Secretary in any establishment or vehicle where it is held for purposes of, or during, or after distribution in interstate commerce, such food may be detained by such representative for a reasonable period, not to exceed 20 days, if such representative concludes that the facts provide a reasonable basis to show that such food is adulterated, misbranded, or otherwise in violation of this Act. Such food may be detained pending seizure action under this section or notification of any Federal, State, or other governmental authority having jurisdiction over the food, and such food shall not be moved by any person from the place at which it is located and detained (except as the Secretary may authorize), until released by the Secretary. If the food is still being processed, and has not been put in final form for shipment, processing may continue until the food is put in final form, but detention of such food in final form may be ordered. Any person who would be entitled to claim such food if it were seized may appeal such detention to a superior official. Such official shall conduct an informal hearing on the matter and confirm or revoke such detention within 5 days of such appeal. The Secretary may extend such detention for an additional 10 days, upon making a finding (and giving appropriate notice) that such extension is necessary to institute seizure action under this section.

"(h) There is a rebuttable presumption, because virtually all food is subject to the jurisdiction of this Act, that any food found in any State is subject to seizure and condemnation pursuant to this section. The claimant or any other party to a condemnation proceeding under this section shall have the burden of establishing that the article or articles are not subject to the jurisdiction of this Act. In the absence of such a showing jurisdiction shall be deemed to be established.".

SEC. 103. Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end thereof the following new subsection:

"(f) If it is a food which was processed other than in compliance with safety assurance procedures and applicable safety assurance standards required by or pursuant to section 410 of this chapter.".

SEC. 104. Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding the following two new subsections:

"(q) The failure to develop, maintain, and make accessible safety assurance procedures as required by section 410(a) of this Act, the failure to comply with safety assurance standards required by or pursuant to section 410 of this Act, the failure to maintain or make available records or make reports required pursuant to section 410 of this Act, or the failure or the refusal to furnish notification or other information as required by or pursuant to section 410 of this Act, with respect to food subject to the jurisdiction of this Act.

"(r) The unauthorized movement of a food detained under section 304(g) of this chapter or the removal or alteration of any mark or label used to identify the food as detained.".

SEC. 105. Chapter III of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331–7) is amended by adding at the end thereof the following two new sections:

"CIVIL PENALTIES

"SEC. 308. (a) Any person who is found by the Secretary, after notice and an opportunity for an adjudicative hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this chapter with respect to any food, shall be liable to the United States for a civil penalty of not more than $10,000 for each day of violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act or acts committed and, with respect to the person found to have committed such act or acts, any history of prior offenses, ability to pay and effect on ability to continue to do business, and such other matters as justice may require.

"(b) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

"(c) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"AUTHORITY TO INITIATE LEGAL ACTIONS

"SEC. 309. Notwithstanding any other provisions of law, the Secretary may initiate, defend, or appeal any court action arising under this Act through his own legal representative or through the Attorney General, except that the Attorney General shall have exclusive authority to initiate prosecution of persons under section 303 of this Act.".

SEC. 106. Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by deleting "United States attorney for such district" each time it appears therein and inserting in lieu thereof "the Secretary, or the United States attorney for such district, as appropriate,".

SEC. 107. (a) Section 702(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(a)) is amended by inserting after the first sentence thereof the following new sentence: "In connection with the training by the Secretary of any individual who is not an officer or employee of the United States to prepare him to perform the duties described in the preceding sentence, the Secretary may allow such individual travel expenses to and from the place of such training, including per diem in lieu of subsistence while in travel status and during such training, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently: *Provided*, That the individual's training is conducted under an agreement between the Secretary and any State or any political subdivision of a State, pursuant to which such individual, upon the completion of the training, will be employed by such State or political subdivision to conduct examinations or investigations to carry out the purposes of this Act.".

(b) Section 6(c) of the Fair Packaging and Labeling Act (15 U.S.C. 1455(c)) is amended by inserting at the end thereof the following new sentence: "In connection with the training by the Secretary of any individual who is an officer or employee of any State or any political subdivision of a State, duly commissioned by the Secretary as an officer of the Department of Health, Education, and Welfare to conduct examinations, investigations, or perform other functions, for the purposes of carrying out this Act, the Secretary may allow such individual travel expenses to and from the place of such training, including per diem in lieu of subsistence while in travel status and during such training, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently: *Provided*, That the individual's training is conducted under an agreement between the Secretary and a State, or a political subdivision of a State, pursuant to which such individual, upon the completion of the training, will be employed by such State, or political subdivision to conduct examinations or investigations to carry out the purposes of this Act.".

SEC. 108. Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) is amended by adding at the end thereof the following new subsection:

"(f) For the efficient administration and enforcement of this Act as it relates to food, the provisions (including penalties but excluding annual reports) of section 6(b), 9, and 10 of the Federal Trade Commission Act (15 U.S.C. 46(b), 49, 50) are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act as it relates to food and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred on the district courts of the United States by such sections 6(b), 9, and 10 of the Federal Trade Commission Act may be exercised for the purposes of this Act by any such court.".

SEC. 109. (a) Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended by inserting immediately after the first sentence thereof the following two new sentences: "In the case of any establishment manufacturing, processing, preparing, packaging, or holding food, inspection shall extend to safety assurance records bearing upon whether a food may be adulterated, within the meaning of section 402(a) of this Act, and records bearing upon the accuracy of statements made in the labeling of food. Safety assurance records shall be limited to process flow diagrams; any analytical procedure or method used; the results obtained from tests to ascertain compliance with safety assurance standards or procedures; quality assurance instructions or manuals; complaints; any record which relates to a breakdown in or demonstrates a pattern or possible weakness in safety assurance procedures or standards; food ingredient usage records; process validation and control records; coding information; and shipping information.".

(b) Section 704(a) of such Act (21 U.S.C. 374(a)) is further amended by striking the words "second sentence" in the last sentence and inserting in lieu thereof "fourth sentence".

SEC. 110. Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end thereof the following new subsection:

"(e)(1) Every person importing, offering for importation, or otherwise responsible for importing into the United States any food or class of food shall file with the Secretary, at least 30 days prior to such importation, a certificate in such manner as the Secretary shall specify, demonstrating that the particular imported food or class of foods has been produced in accordance with safety assurance procedures and in compliance with any applicable safety assurance standard established pursuant to section 410 of this Act.

"(2) The Secretary shall request the Secretary of the Treasury to refuse admission into the United States, pursuant to this section of any such food or class of food which the Secretary determines has not been produced in accordance with section 410 of this Act, or where the importer has failed to file the certification required in this subsection.

"(3) Any such food refused admission shall not be admitted until such time as the Secretary may determine that the food offered for importation is not injurious to the public health. For the purpose of making such determination, the Secretary reserves the right to request that a duly authorized employee or agent of the Secretary be permitted to inspect the processing procedures employed in the production of the food or class of food offered for importation.".

SEC. 111. Section 705 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 375) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall not use to his own advantage, or reveal, other than to other officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this Act, any trade secret information relating to food or any other information referred to in section 1905 of title 18, United States Code insofar as it relates to food. With respect to information relating to food which was originated by any person other than the Secretary, whenever the Secretary determines that information which he desires to disclose is not trade secret information and is not otherwise referred to in such section 1905, he immediately shall give notice to the originator of such information that he intends to disclose such information, identifying the information in such notice with sufficient particularity to enable its originator to evaluate whether it is referred to in such section 1905, and the Secretary shall provide such originator with an opportunity, which is reasonable under the circumstances but not to exceed 15 days, to initiate a civil action to enjoin, suspend, or restrain any such intended disclosure on the ground that such information is a trade secret or is otherwise referred to in section 1905 and, therefore, is prohibited from disclosure by this subsection. The district courts of the United States shall have jurisdiction over actions brought under this subsection, without regard to the amount in controversy. The courts shall expedite the disposition of such actions and shall cause them to be conducted in a manner which is designed to protect the confidentiality of the information intended to be disclosed by the Secretary.".

SEC. 112. Section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (f)) is amended by inserting after "animals," the following: "except that in sections 402(f), 410, and 411 of this Act such term shall not include articles used for food or drink for animals,".

SEC. 113. The amendments made by this title shall take effect upon the date of enactment of this Act, except that the first report under section 410(b) of the Federal Food, Drug, and Cosmetic Act shall be required on or before December 31, 1975.

TITLE II—FOOD ESTABLISHMENT REGISTRATION

SEC. 201. The Congress finds and declares that—

(a) in order to make regulation of interstate commerce in food effective, it is necessary to provide for registration and inspection of all establishments in which food intended for human consumption is manufactured, processed, packaged, labeled, stored, or otherwise handled;

(b) the products of all such establishments are likely to enter the channels of interstate commerce and to affect such commerce directly; and

(c) the regulation of interstate commerce in food, without provision for registration and inspection of establishments that may be engaged only in intrastate commerce in such food, would discriminate against and depress interstate commerce in such food and adversely burden, obstruct, and affect such interstate commerce.

SEC. 202. Chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by this Act is further amended by adding after section 410 the following new section:

"REGISTRATION OF FOOD ESTABLISHMENTS

"General

"SEC. 411. (a) On or before December 31 of each even-numbered year (or of such other year as the Secretary may determine), each food processor in any State shall prepare and submit to the Secretary a registration statement which shall include, but not be limited to, his name; principal place of business; the location of each establishment owned or operated by him; and, for each such establishment, a complete list, in such form as the Secretary shall by regulation prescribe, of all classes of foods processed therein. Such list shall identify the types of processing utilized for each class of food. The Secretary shall promulgate regulations defining classes of foods and types of processing, to promote uniformity and expeditious administration with respect to such registration.

"Notification

"(b)(1) Any person, upon first engaging in the processing of food in any establishment which he owns or operates in any State, shall immediately notify the Secretary and prepare and submit to him a registration statement containing the information required under subsection (a) of this section.

"(2) Any person who has duly registered under this section shall notify the Secretary if he ceases to process or discontinues the processing of any class of food in any establishment, within 90 days of such cessation or discontinuance. Such notification shall not be required in the case of any temporary cessation of processing which is necessitated by the seasonal character of operations at the particular establishment or which is caused by temporary conditions beyond the control of such person.

"(3) Every person who has submitted a registration statement in accordance with this section shall immediately notify the Secretary of any additional establishment which he acquires or at which he commences operations in any State and which involves the processing of food. Such notice shall contain a supplemental registration statement which shall include, with respect to such additional establishment, the information required by subsection (a) of this section.

"Number

"(c) The Secretary may assign a registration number to any person or any establishment registered in accordance with this section.

"Public Availability of Information

"(d) The Secretary shall make any registration statement filed pursuant to this section available for inspection by any person without charge, except to the extent that such information is a trade secret or other matter referred to in section 1905 of title 18, United States Code.

"Exemption

"(e) This section shall not apply to—

"(1) any class of food processors whom the Secretary may by regulation exempt from the application of this section upon a finding in writing that registration in accordance with this section is not necessary for the protection of the public health;

"(2) any processing subject to the exclusive jurisdiction of the Secretary of Agriculture;

"(3) any processing consisting solely of the sale of food in a retail establishment for consumption on or off the premises; or

"(4) the processing of distilled spirits, wine, or malt beverages as defined in the Federal Alcohol Administration Act (27 U.S.C. 201–211).

"Inspection

"(f) Every establishment in any State which is required to be registered with the Secretary under this section shall be subject to inspection, pursuant to section 704 of this Act.

"Foreign Registration

"(g) The Secretary may by regulation provide for the registration of foreign establishments engaged in the processing of food intended to be offered for importation into the United States.

"Definitions

"(h) As used in this section and sections 402(f), 402(g), 403(o), 410, 801(a), and 801(e) of this Act—

"(1) 'name' includes, in the case of a partnership, the name of each partner and, in the case of a corporation, the name appearing on the corporation's charter or certificate of incorporation, the name of each principal corporate officer, and the name of any State of incorporation;

"(2) 'principal place of business' and 'location of each establishment' include mailing address and telephone number; and

"(3) 'processing' and 'processed' include manufacturing, processing, packing, labeling, storing, importing or being in any manner responsible for importing, or otherwise handling food.".

SEC. 203. Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act (21 U.S.C. 331), is further amended by adding after subsection (r) thereof the following new subsection:

"(s) The failure to register or the failure to provide any information, as required by section 411 of this Act.".

SEC. 204. Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end thereof the following new subsection:

"(o) If it was processed in an establishment required to be registered under section 411 of this Act and not so registered.".

SEC. 205. Section 801(a) of such Act (21 U.S.C. 381(a)) is amended by inserting "(1)" immediately after "(a)" and adding at the end thereof the following new paragraph:

"(2) The Secretary may refuse entry of any food offered for importation into the United States which has been processed in any establishment, other than an establishment registered pursuant to section 411 of this Act.".

SEC. 206. The amendments made by this title shall take effect on the first day of the seventh calendar month which commences after the date of enactment of this Act.

TITLE III—FOOD LABELING

SEC. 301. The Congress finds that the availability to consumers in a uniform manner of information regarding the dating, ingredients, and nutritional qualities of food will enhance the health and the nutritional and economic welfare of the consumer. The

presence of differing, additional, conflicting, or nonuniform labeling requirements for foods leads to consumer confusion and higher food costs by requiring for different localities separate labels for the same food; discriminates against and depresses interstate commerce in such foods; and adversely burdens, obstructs, and affects such interstate commerce.

SEC. 302. Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act (21 U.S.C. 343), is further amended by adding after subsection (o) thereof the following new subsection:

"(p) If the label or labeling bears any information regarding the dating of a food for human consumption, unless such information is in accordance with regulations promulgated by the Secretary. Regulations promulgated under this subsection shall—

"(1) identify, upon a finding of need to prevent violations of this Act, those foods or classes of food with respect to which date information must be provided, or those characteristics of a food or class of foods which necessitate the providing of date information;

"(2) require the processor of a food, with respect to which the Secretary has made a finding that date information is necessary, to place on the package or label of such food the date by which the processor recommends that such food be sold at retail for consumption (sell date);

"(3) require that the date be stated on the package or label in a clear and conspicuous manner and in such form as will enable the consumer readily to identify the day or date, without reference to any decoding information;

"(4) require that the date be accompanied by a statement or phrase which clearly states that the date expressed is a sell date;

"(5) require a statement of the storage conditions recommended by the processor, if such storage conditions differ from ordinary room temperature;

"(6) prohibit a processor of any food with respect to which the Secretary has made a finding that date information is necessary from placing on a label or in labeling of such food any other information which may appear to the ordinary consumer to represent a sell date; and

"(7) prohibit a processor of any food with respect to which the Secretary has not made a finding that date information is necessary from placing on the label or in labeling of such food any date information which may appear to the ordinary consumer to represent a sell date, unless such information is expressed in a manner consistent with the requirements of paragraphs (2) through (6) of this subsection.".

SEC. 303. Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act (21 U.S.C. 343), is further amended by adding after subsection (p) thereof the following new subsection:

"(q) If it purports to be or is represented as a food for human consumption—

"(1) to which a nutrient or nutrients have been added; or

"(2) for which any claim of nutritional value is made on the label or in labeling, or in advertising or in promotion of such food;

unless the nutrition information on the label or in labeling is in accordance with regulations promulgated by the Secretary.".

SEC. 304. (a) Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), is amended by striking out the fourth sentence thereof.

(b) Section 403(g) of such Act (21 U.S.C. 343(g)), is amended to read as follows:

"(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401 of this chapter, unless (1) it conforms to such definition and standard; and (2) its label bears the name of the food specified in such definition and standard.".

SEC. 305. (a) Section 403(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343 (i)), is amended to read as follows:

"(i)(1) If its label fails to bear the common or usual name of the food, if there is one; and

"(2) In case the food is fabricated from two or more ingredients, if its label fails to bear—

"(A) the common or usual name of each such ingredient (in the order of its predominance); except that (i) spices and flavorings, other than those sold as such, may be designated as spices and flavorings without naming each such ingredient, if information concerning each spice and flavoring not designated on the label is available upon request from the manufacturer or distributor named on the label: *Provided*, That the Secretary may by regulation require certain spices and flavorings to be named on the labels or packages upon a finding that such disclosure is necessary to protect public health or to provide information useful to consumers; and (ii) subject to such conditions as the Secretary may by regulation provide, this provision shall not apply to the following:

"(a) a food which has been received in bulk containers at a retail establishment, if such food is displayed to the purchaser with the labeling of the bulk container plainly in view or with a counter card, sign, or other appropriate device plainly in view which prominently and conspicuously displays the information required to be stated on the label;

"(b) incidental additives that are present in a food at insignificant levels and which do not have any technical or functional effect in such food;

"(c) the label declaration of a harmless marker which is used to identify a particular manufacturer's product, in order to protect against disclosure of a trade secret;

"(d) closely related ingredients that may be declared by a general term or without regard to order of predominance in a manner that accurately states the nature of the ingredients;

"(e) a shipment or other delivery of a food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than the establishment in which it is originally processed, labeled, or packed;

"(f) an assortment of different items of food which are packed in such a way that there are variations in the ingredients in different packages;

"(g) shipping containers or other transportation wrappings, tray pack displays, and transparent wrappers; and

"(h) inner packages in multicomponent food packages; and

"(B) a declaration of the percentage of any ingredient of any such food for human consumption if (i) the ingredient is an integral part of such food and is significant with respect to value, quality, nutrition, or acceptability of such foods, or (ii) the ingredient is required to be so declared by the Secretary by regulation upon a finding that such information would be useful to consumers.".

(b) Section 403(k) of such Act (21 U.S.C. 343(k)) is amended by striking out "paragraphs (g) and (i)" and inserting in lieu thereof "paragraph (i)".

(c) The Secretary of Health, Education, and Welfare shall conduct, or cause to be conducted (taking into consideration, and providing for representation of, views held by consumer, industry and health groups concerned with food labeling) a study of the need to amend the Federal Food, Drug, and Cosmetic Act to require that the common or usual name of every spice and flavoring used in the fabrication of a food for human consumption be declared on the label of such food. Such Secretary shall transmit a report on the results of such study to the President and Congress simultaneously within 1 year after the date of enactment of this Act. This report shall assess the need of consumers for such information, the feasibility of requiring all such ingredients to be labeled, any potential beneficial or adverse economic or health consequences of such labeling, and the reasonableness of alternatives to the labeling of all such ingredients.

SEC. 306. Section 407(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 347(c)) is amended to read as follows:

"(c) No person shall serve colored oleomargarine or colored margarine at a public place, whether or not any charge is made therefor, unless—

"(1) a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place; or

"(2) a notice that oleomargarine or margarine is served is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items; or

"(3) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine.".

SEC. 307. Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391–2) is amended by adding at the end thereof the following new section:

"SEC. 903. (a) It is declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof, insofar as they may now or hereafter provide for information on the label or in labeling of a food which is in addition to or different from information required on the label or in labeling under section 403 of this Act or regulations promulgated thereunder, except as provided in subsection (b) of this section.

"(b)(1) Upon application of a State or political subdivision thereof, the Secretary is authorized to exempt from subsection (a) of this section any existing or proposed law or regulation for such jurisdiction as provided in this subsection.

"(2) An application for exemption under this subsection shall demonstrate that the implementation of the subject law or regulation in the applying jurisdiction will likely promote the interests of consumers therein without unduly burdening interstate commerce, and that such law or regulation is inappropriate for promulgation as a Federal requirement.

"(3) Upon receipt of an application for exemption, which shall be accompanied by any materials gathered by the applicant in its legislative or administrative consideration of the existing or proposed law or regulation, the Secretary shall publish such application in the Federal Register as a proposal, accompanied by a description of any supporting materials submitted therewith which, because of their voluminosity or other good and stated reason, are not suitable for publication at that time. Such supporting materials shall be available for public inspection at an appropriate location identified at the time the application is published as a proposal.

"(4) The procedure for consideration and action upon a proposed exemption shall be pursuant to section 553 of title 5, United States Code, except that the Secretary shall allow at least 60 days for public comment and shall provide interested persons with an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions,

and shall keep a transcript of any oral presentation.

"(5) The Secretary shall grant the proposed exemption upon finding that the subject law or regulation will likely promote the interests of consumers within the applying jurisdiction without unduly burdening interstate commerce or otherwise adversely affecting the interests of all consumers, and such action shall be subject to judicial review pursuant to section 701(f) of this Act.".

SEC. 308. Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act (21 U.S.C. 331), is further amended by adding after subsection (s) thereof the following new subsection:

"(t) Changing, altering, or removing before the sale of a packaged food to the ultimate consumer, any statement or information required by regulations issued under section 403 of this Act to be placed on the label or in labeling of such food.".

SEC. 309. This title shall not apply to the labeling of distilled spirits, wine or malt beverages to the extent of the application or the extension thereto of the Federal Alcohol Administration Act (27 U.S.C. 201–211).

SEC. 310. The amendments made by this title shall take effect upon the date of enactment, except that the effective date for any regulations promulgated pursuant to this title shall be no earlier than the first day of the sixth month beginning after the date regulations are published as a final order in the Federal Register with respect to all new or changed labels printed thereafter, and the first day of the eighteenth month beginning after the date the regulations are published as a final order in the Federal Register with respect to all other labels.

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. POSITION ON THE LAW OF THE SEA

Mr. STEVENS. Mr. President, I am sure that the Senator from Washington will join me in recognizing the statement that has been made today by the representative of the Department of State at the Law of the Sea Conference in Caracas.

Our Nation has taken a very important step today by indicating a flexibility in our position. Ambassador Stevenson today has notified the Law of the Sea Conference that the United States is indeed ready to accept a general agreement on a 12-mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone, provided it is part of an acceptable comprehensive package, including a satisfactory regime within and beyond the economic zone and provision for unimpeded transit of straits used for international navigation.

Ambassador Stevenson pointed out that two issues remain with respect to the limits of coastal state economic jurisdiction beyond 200 miles with which the Conference must deal: Jurisdiction over the resources of the continental margin when it extends beyond 200 miles and jurisdiction over anadromous fish such as salmon, which originate in coastal rivers but swim far out into the ocean before returning to the stream of their birth to spawn and die.

I am sure that my good friend and neighbor, the chairman of the Committee on Commerce, joins me in commending Ambassador Stevenson and the delegation to the Law of the Sea Conference in finally coming around to endorsing the position that has been expressed by the chairman of our committee and by me on many occasions.

I am quite hopeful that this means that the Law of the Sea Conference will indeed be a successful one. By announcing that we are prepared to accept the concept of a 12-mile territorial sea and a 200-mile economic zone, and by recognizing an international regime for the deep sea bed beyond that area of jurisdiction, I think the United States has made a tremendous step toward the ultimate protection of our fisheries resources and the tremendous productive potential of those resources for the future of this country, as well as for all mankind.

I congratulate the Senator from Washington, because he has had a great deal to do with this change of position, with his persistence in the hearings we have held throughout the country, and in the overwhelming expression of support for the bill he and I introduced to recognize this concept for the United States.

Mr. MAGNUSON. Mr. President, I appreciate the remarks of the Senator from Alaska. I think he and I told them that we would be helpful down there. I am glad that, instead of their taking exception to what we have been doing, they have finally come to understand that this apparently is how the Members of Congress feel about it and that, therefore, they should do their best, as representatives of the United States, to work out this matter.

We have come a long way. I have not read all the details as yet. I am certain that every person involved, particularly in the coastal States and the fishermen themselves, as well as the conservationists, who have been watching our stocks become depleted year after year, are going to accept this news with great joy. It is the first time we have been able to say to them that it appears that we are going to be able to work out these problems.

The Senator from Alaska has joined me in this matter, as have many Members from the New England States, particularly those from coastal states. The committee staff also worked hard on this matter.

I did not think it would happen this fast, but I am glad it did. I hope that now the Law of the Sea Conference will go ahead and do its job, that for a change it will do a job that will not be detrimental or discriminatory to the United States, but will put us on an equal footing with other nations and will conserve the resources of the seas. If they do not do so—I hope they will do so, after this statement—we will not have any fish left for anybody.

Mr. STEVENS. I thank the Senator from Washington for his comments.

I think we should also mention the efforts of Mr. John Moore in making this change in position for the United States.

Mr. President, I ask unanimous consent to enter in the RECORD the full text of the statement by Ambassador John Stevenson for the United States at the Law of the Sea Conference today.

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

U.S. POSITION ON THE LAW OF THE SEA

Senor Presidente distinguidos representantes, en primer lugar quiero expresar, de parte de mi delegacion, nuestro profundo agradecimiento al Gobierno venezoland por los magnificios arreglos que ha hecho para la conferencia y para nosotros, es un verdadero mi agro que desde la invitacion ofrecida por Venezuela y aceptada por la asamblea general de las naciones unidas en diciembre todos los preparativos han sido llevados a cabo tan eficazmente, con tan cuidadsa atencion para nuestras necesidades y comodidad.

Three auguries of succesful conference. Mr. President; the practical and favorable working conditions which the Venezuelan Government has so graciously provided are the first of three auguries of a most successful conference. The other two are the adoption on schedule by consensus of the rules of procedure, and second, the constructive, moderate tone and the developing consensus.

Adoption of rules of procedure. The adoption of the rules of procedure on schedule by consensus was significant because these rules are a reasonable accommodation between those who wished to avoid premature voting and those who were concerned about undue delay. It was also significant, Mr. President, because it showed what inspired, firm and sensitive leadership; as provided by you, sir, can do in reconciling differences and leading us to a generally acceptable result. You have set a high standard for our committee chairman, but knowing and respecting all of them as I do, I am convinced that the team of Engo, Aguilar, Yankov and Beesley will live up to this challenge. The conference has selected its leadership with care and with great wisdom.

Moderate and constructive tone of general debate. Our delegation has noted with a growing sense of appreciation and optimism for the future, the generally moderate, constructive tone of the statements made in the course of the last two weeks. Only very few delegations have departed from this general pattern, misrepresenting past events and the present positions of some delegations, including our own.

We are not here to engage in mutual recriminations. We must roll up our sleeves and get down to the practical business of drawing up a generally acceptable constitution for the oceans before disputes over conflicting uses of the same ocean space and unilateral action by individual states put such agreement out of our reach.

Growing consensus on limits of national and international jurisdiction. In the course of listening to and reading the statements made during the last two weeks, I have been struck by the very large measure of agreement on the general outlines of an over-all settlement. Most delegations that have spoken have endorsed or indicated a willingness to accept, under certain conditions and as part of a package settlement, a maximum limit of 12 miles for the territorial sea and of 200 miles for an economic zone, and an international regime for the deep seabed in the area beyond national jurisdiction.

The United States has for a number of years indicated our flexibility on the limits of coastal state resources jurisdiction. We have stressed that the content of the legal regime within such coastal state jurisdiction is more important than the limits of such jurisdiction. Accordingly, we are prepared to accept, and indeed we would welcome general agreement on a 12-mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone provided it is part of an acceptable comprehensive pack-

age, including a satisfactory regime within and beyond the economic zone and provision for unimpeded transit of straits used for international navigation.

There remain two issues with respect to the limits of coastal state economic jurisdiction beyond 200 miles with which the conference must deal! Jurisdiction over the resources of the continental margin when it extends beyond 200 miles and jurisdiction over anadromous fish such as salmon, which originate in coastal rivers but swim far out into the ocean before returning to the stream of their birth to spawn and die.

A number of states have expressed the view that under the continental shelf convention and the continental shelf doctrine of customary international law as interpreted by the international court of justice, they have rights over the resuorces of the continental margin and that they will not accept any law of the sea treaty which cuts off the rights at 200 miles.

Other states are reluctant to reduce the common heritage of mankind by recognizing coastal state jurisdiction beyond 200 miles. Still others, including the United States, have suggested an approach which gives coastal states the limit they seek, but provides, through uniform payments of a percentage of the value of production, for the sharing by other states in the benefits of the exploitation of the nonrenewable resources in part of the area. This would seem to be an equitable basis for an accommodation.

With respect to salmon, the views of my country are well known. This species of fish depends for survival on the maintenance at considerable economic cost of a favorable environment in coastal rivers and streams, and can effectively be conserved and managed only if caught, when returning to the fresh waters of its origin, in the internal waters, territorial sea or economic zone of the host state, the very survival of this species of fish may depend on the action we collectively take at this conference.

Consensus on limits of national and international jurisdiction is conditional on nature of coastal and international regimes within these limits. The statements to date make clear that in the case of a large number of States whose agreement is critical for an effective, generally acceptable treaty, the growing consensus on the limits of national jurisdiction i.e., a maximum outer limit of 12 miles for the territorial sea and of 200 miles for the economic zone—is conditional on a satisfactory overall treaty package and, more specifically, on provisions for unimpeded transit of international straits and a balance between coastal State rights and duties within the economic zone.

Territorial sea. With respect to the coastal States' right to establish a territorial sea of up to a maximum of 12 miles, it is the view of many delegations, including our own, that general recognition of this right must be accompanied by treaty provisions for unimpeded passage through, over and under straits used for international navigation. The formulation of treaty language which will maintain a nondiscriminatory right of unimpeded transit while meeting coastal State concerns with respect to navigational safety, pollution and security will be one of the second committee's most important tasks.

Economic zone. Our willingness and that of many other delegations to accept a 200-mile outer limit for the economic zone depends on the concurrent negotiation and acceptance of correlative coastal State duties.

The coastal State rights we contemplate comprise full regulatory jurisdiction over exploration and exploitation of seabed resources, non-resource drilling, fishing for coastal and anadromous species, and installations constructed for economic purposes.

The rights of other States include freedom of navigation, overflight, and other non-resource uses.

With respect to the zone as a whole, we contemplate coastal State duties to prevent unjustifiable interference with navigation, overflight, and other non-resource uses, and to respect international environmental obligations. With regard to the seabeds and economic installations, this includes respect for international standards to prevent interference with other uses and to prevent pollution. With regard to fishing, this includes a duty to conserve living resources.

For the seabeds, we also contemplate a coastal State duty to observe exploration and exploitation arrangements it enters into.

For fisheries, to the extent that the coastal State does not fully utilize a fishery resource, we contemplate a coastal State duty to permit foreign fishing under reasonable coastal State regulations. These regulations would include conservation measures and provision for harvesting by coastal State vessels up to their capacity and could include the payment of a reasonable license fee by foreign fishermen. We also contemplate a duty for the coastal state and all other fishing states to cooperate with each other in formulating equitable international and regional conservation and allocation regulations for highly migratory species, taking into account the unique migratory pattern of these species within and without the zones.

The negotiation and elaboration of these duties is a critical responsibility of the second committee.

With respect to the related assertions by a number of states of coastal state plenary jurisdiction over scientific research and vessel-source pollution throughout the economic zone, the statements make clear that the willingness of many delegations, including my own, to negotiate on the basis of conditional acceptance of a 200-mile economic zone does not include acceptance of a requirement of coastal state consent for scientific research and coastal state control over vessel-source pollution within the zone.

For our part, we believe that, as an alternative to coastal state consent, a series of obligations should be imposed on the researcher and his flag state to respect coastal state resource interests in the zone. The obligations would include advance notification, participation, data sharing, assistance in scientific research technology and in interpretation of data, and compliance with applicable international environmental standards.

Vessel-source pollution presents a troublesome problem to the entire international community, including coastal states. At the same time, interference with freedom of navigation must be prevented. We believe international standards enforced by flag and port states, with provision for specific additional coastal state enforcement rights, can accommodate these legitimate interests. In this connection, we believe the coastal state may be authorized to take enforcement action in emergencies to prevent imminent danger of major harmful damage to its coast, or pursuant to a finding in dispute settlement that a flag state has unreasonably and persistently failed to enforce applicable international standards on its flag vessels. Of course, flag and port states would retain their right to set higher standards.

While important differences in our positions remain to be resolved in this session, we are heartened as we embark in these negotiations by the realization that most states want to ensure both effective prevention of vessel-source pollution and protection of navigational freedoms.

We hope that the third committee can make major progress in producing agreed articles on these scientific research and pollution questions.

International seabed regime beyond national jurisdiction. Just as coastal State rights within the zone must, if we are to reach agreement, be balanced by duties, the international authority's jurisdiction over the exploitation of the deep seabed's resources—the common heritage of mankind—must be balanced by duties that protect the rights of individual States and their nationals—most critically in our view their right to nondiscriminatory access under reasonable conditions to the seabed's resources on a basis that provides for the sharing of the benefits of their exploitation with other States.

The statements made do indicate that there are substantial differences among us in our interpretation and proposed implementation of the common heritage principle. Both developing and developed countries have many aspirations concerning the common heritage; in some cases these are in harmony and in others they are not. My delegation believes that on a variety of issues which seem on the surface to present a wide gulf we are closer together than we think. Let us employ every possible method of work to ensure that we find these points of harmony and proceed at once to reflect this harmony in draft articles. This we believe is the principal task before the first committee at this session.

Interest of landlocked and geographically disadvantaged States. Most prior speakers have referred to the desirability, indeed the necessity, of providing special benefits in a comprehensive law of the sea treaty for the landlocked and geographically disadvantaged States. The most widely supported proposals are that landlocked States' right of access to the sea and special rights in the fisheries of adjacent coastal States be recognized.

Although these recommendations do not directly affect the United States, we applaud coastal States' willingness to provide these benefits as part of an overall equitable and widely acceptable settlement and, we will, of course, support such provisions.

Much more controversial is the proposal of some landlocked and other geographically disadvantaged States that they participate in the benefits of the exploitation of nonrenewable resources—principally petroleum and natural gas—of the continental margin, either through a direct right of access to neighboring coastal States' continental margins or by the establishment of limits of some of the continental margin outside of coastal State control and within the common heritage.

It is my delegation's view that, as part of a satisfactory and widely acceptable treaty, an equitable and perhaps the most practicable accommodation in this area may well be to provide for coastal States' exclusive rights in the continental margin; but also to provide for international payments from mineral resources at a modest and uniform rate in the area beyond 12 miles or the 200 meter isobath, whichever is further seaward. These payments would be used primarily for developing countries, including developing landlocked and other geographically disadvantaged States. Landlocked and other geographically disadvantaged States should not expect that sharing in the benefits from deep seabed hard minerals alone could make a significant contribution to their economies.

Compulsory dispute settlement. Mr. President, my government believes that any law of the sea treaty is almost as easily susceptible of unreasonable unilateral interpretation as are the principles of customary international law. This is particularly true when we consider that the essential balance of critical portions of the treaty, such as the economic zone, must rest upon impartial interpretation of treaty provisions. One of the primary motivations of my government in supporting the negotiation of a new law of the sea treaty is that of making an enduring contribution to a new structure for peaceful relations among States, accordingly, we must reiterate our view that a system of peaceful and compulsory third-party settle-

ment of disputes is in the end perhaps the most significant justification for the accommodations we are all being asked to make.

Objectives for the Caracas session. It is the view of my delegation that the conference should strive to adopt an entire treaty text this summer. What is required to do so is not so much technical drafting as the political will to decide a relatively small number of critical issues. Once these decisions are made, the number of treaty articles required to implement them for the territorial sea, straits and the economic zone would not be large. The deep seabed regime will require more articles, and the first committee should concentrate on the preparation of agreed articles whenever this is possible.

What an electrifying and heartening development it would be for the international community, and what a deserved tribute to our Latin American host, if we could adopt an agreed text this session!

If we do not at least try to reach agreement on the treaty this summer, we may well not even achieve the basic minimum required to finish next year and in the interim prevent further unilateral action prejudicial to the success of the conference.

The minimum objective for Caracas, as we see it, is to complete treaty texts on most, if not all, of the critical articles—the territorial sea, straits, the economic zone, the seabed regime and the authority's functions, pollution from ocean uses, and scientific research. To achieve this objective, it is critical to recognize now that neither a statement of general principles, nor articles which define the rights of coastal states and of the seabed authority without defining their corresponding duties, would be satisfactory, or indeed at all acceptable, to a number of delegations including our own.

As I indicated at the outset there is already a very general agreement on the limits of the jurisdiction of coastal states and the seabed authority provided we can agree on their corresponding obligations. It is the negotiation of these duties that should be the main thrust of the negotiations this summer.

This is not, as some delegations have implied, an attempt to destroy the essential character of the economic zone—to give its supporters a juridical concept devoid of all substantive content.

On the contrary, the coastal states' exclusive control over the nonrenewable resources of the economic zone is not being challenged. In the case of fisheries; coastal state management and preferential rights over coastal and anadromous species would be recognized. The principle of full utilization will ensure that renewable resources which might not otherwise be utilized will give some economic benefit to the coastal state and help meet the international community's protein requirements. Agreed international conservation and allocation standards for the rational management of tuna should in the long run benefit coastal states which seek to engage in fishing these species and would maintain the populations of the tuna that migrate through their zone. Finally, most states are prepared to agree to coastal state enforcement jurisdiction with respect to resource exploitation within the economic zone.

Gentlemen, we have come to Caracas prepared to negotiate on these critical questions. They are not merely the legal fine print to be filled in once general principles have been agreed, but the very heart of the conditional consensus we are well on the way to achieving. Years of preparation have brought us to the moment when we must complete the task that we have undertaken. We must not let this opportunity pass. Thank you, Mr. President.

EXTENSION OF TIME FOR COMMITTEES TO FILE REPORTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may have until 5 p.m. tomorrow to file reports.

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

ADJOURNMENT TO MONDAY JULY 15, 1974

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 6:08 p.m. the Senate adjourned until Monday, July 15, 1974, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate July 11, 1974:

THE JUDICIARY

Murray I. Gurfein, of New York, to be a U.S. circuit judge, second circuit, vice Paul R. Hays, retiring.

IN THE MARINE CORPS

The following-named (Navy Enlisted Scientific Education Program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Best, William F.
Decker, Robert E.

The following-named (Marine Corps Enlisted Commissioning Education Program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Graff, Joseph G.
Keogh, William P.
McVay, Gerald T.
Mitchell, Douglas M.
Radosevich, James D.
Triplett, Charles F.

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Graus, Robert J.
Ince, Michael D.
Menendez, Thomas J.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapters 35 and 837, title 10, United States Code:

LINE OF THE AIR FORCE

LIEUTENANT COLONEL TO COLONEL

Bell, Elmer R., [redacted]
Bradley, Fred F., [redacted]
Brosky, John G., [redacted]
Casagrande, John G., [redacted]
Cole, Alfred B., [redacted]
Conley, John B., [redacted]
Corn, Samuel E., [redacted]
Debard, Robert L., [redacted]
Dissinger, Glenn T., [redacted]
Dotson, Frank L., [redacted]
Dvorak, James B., Jr., [redacted]
Flournoy, Houston I., [redacted]
Hermanson, Richard V., [redacted]
Hettlinger, Frank L., [redacted]
Hudgins, Richard S., [redacted]
Jewhurst, John H., [redacted]
Keim, Kenneth B., [redacted]
Kenneally, James J., [redacted]
Linsmeier, Francis G., [redacted]
Miller, Bernard L., [redacted]
Moore, Clayton D., [redacted]
Morrisey, Edmund C., Jr., [redacted]
Neal, Robert A., [redacted]
Rodosvich, Eli M., [redacted]
Saxton, Philip G., [redacted]
Seibert, Richard C., [redacted]
Stine, Joseph K., [redacted]
Stringfellow, William A., [redacted]
Strope, Philip W., [redacted]
Sullivan, Paul F., [redacted]
Tschida, Robert J., [redacted]
Weber, Melvin A., [redacted]

DENTAL CORPS

Simmonds, James F., [redacted]

MEDICAL CORPS

Johnson, William H., [redacted]
Schley, Philip T., [redacted]
Sims, Eugene W. R., [redacted]

HOUSE OF REPRESENTATIVES—*Thursday, July 11, 1974*

The House met at 12 o'clock noon.

The Reverend William A. Holmes, Metropolitan Memorial United Methodist Church, Washington, D.C., offered the following prayer:

Almighty God, the Creator of concord and the Author of peace, we stand this day as those who long for harmony in the personal and public dimensions of our lives. Yet, even as we possess and are possessed by this longing, deliver us we pray from counterfeit concord, from crying "peace, peace, where there is no peace," and from simplistic solutions to complex problems. With the convening now of this congressional body, may the decisionmaking process move with urgency beyond rhetoric and into the throes of reason, beyond superficial compromise into the depth of a creative tension, that our concord and peace may bear the mark of Herculean struggle to perceive the common good. This Nation—in the hands of men and God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11385) entitled "An act to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2830) entitled "An act to amend the Public